



BRIEFING

New Zealand Income Insurance – Meeting with Minister of Finance and Minister for Social Development and Employment

Date:	14 July 2022	Priority:	High
Security classification:	In Confidence	Tracking number:	2223-0115

Information for Ministers	Deadline
Hon Grant Robertson Minister of Finance	2.00pm Tuesday, 19 July
Hon Carmel Sepuloni Minister for Social Development and Employment	2.00pm Tuesday, 19 July

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Jivan Grewal	Policy Director	-	Privacy of natural persons	✓
Amy Hamerton	Principal Policy Analyst	-		

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

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 Withdrawn

Comments



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Purpose

An update is provided on the New Zealand Income Insurance scheme (NZII) work programme and governance arrangements to inform your discussion at the NZII joint-Ministers meeting on 19 July 2022. An agenda that sets out the key areas of discussion at the meeting is attached (attachment 1).

Executive Summary

On 4 July 2022, Cabinet agreed to proceed with NZII and its detailed design, noting that the NZII Bill should be introduced no later than December 2022 and agreed that legislation should be passed by July 2023.

The Ministry of Business, Innovation and Employment (MBIE) are working with the Accident Compensation Corporation (ACC), Inland Revenue, and the Ministry of Social Development (MSD) to prepare instructions to implement Cabinet's decision on 4 July 2022.

There are some remaining policy decisions required ahead of further drafting instructions, namely:

- whether and how to provide coverage for self-employed workers
- options for providing levy-relief to low-income workers
- whether to enable NZII to provide for crisis payments
- coverage of casual work
- enforcement framework
- information sharing to support the operation of NZII.
- clarifying aspects of the bridging payment.

MBIE will work with ACC, MSD, Inland Revenue, social partners, and the Pou Tangata Skills and Employment Iwi Leaders Group (SE ILG) to develop further advice on the above issues. We will report back to Ministers with this further advice in August to inform Cabinet decisions by October 2022.

With respect to the drafting process, MBIE policy and legal will work with ACC, Inland Revenue and MSD to provide PCO with drafting instructions and that the DCE leadership group will provide oversight. Social partners the SE ILG will be provided with full drafts of the legislation at the end of the process for consultation but will not be involved in the process.

MBIE is also undertaking work with MSD, with involvement from ACC, on further advice for Active Labour Market Programmes (ALMP) related to economic displacement. This work will focus in the short-term, on the identification of appropriate services that would benefit displaced workers, and in the longer-term advice on the need for new support or services for displaced workers most at risk of poor labour market outcomes.

To support successful implementation, ACC has established the NZIIS Programme Steering Committee to oversee the NZII implementation design and readiness phases, comprising representatives from ACC, MBIE, MSD, Inland Revenue, and the Service Transformation Unit.

The attached agenda notes the key areas for discussion at your meeting on 19 July 2022, and we welcome your feedback on your preferences on the proposed work programme and governance arrangements.

Recommended Action

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

1. **Note** that on 4 July 2022, Cabinet agreed to proceed with NZII and its detailed design and noted that the NZII Bill should be introduced no later than December 2022 and agreed that legislation should be passed by July 2023

Noted

2. **Note** that MBIE will work with ACC, MSD and Inland Revenue to prepare initial drafting instructions to implement Cabinet's decision on 4 July 2022 to proceed with NZII and its detailed design

Noted

Ongoing Policy Development

3. **Note** that there are some remaining policy decisions required ahead of further drafting instructions:

- whether and how to provide coverage for self-employed workers
- options for providing levy-relief to low-income workers
- whether to enable NZII to provide for crisis payments
- coverage of casual work
- enforcement work
- some information sharing requirements to support the operation of NZII
- clarifying aspects of the bridging payment.

Noted

4. **Note** that MBIE will provide you with further advice on the policy issues noted in recommendation 3 in August 2022 to inform a Cabinet report back by October 2022

Noted

5. **Note** that for the remaining policy issues noted in recommendation 3, the existing governance model will be used to progress this work and for decision making

Noted

6. **Note** that social partners and the SE ILG have an on-going stake in the work, especially where the policy remains in development and MBIE will continue to work with the social partners and the SE ILG as we have previously done

Noted

Drafting

7. **Note** that MBIE policy and legal will work with ACC, Inland Revenue and MSD to provide PCO with drafting instructions and that the DCE leadership group will provide oversight

Noted

8. **Note** that social partners and the SE ILG will be provided with full drafts of the legislation at the end of the process for consultation but will not be involved in the process

Noted

Implementation

9. **Note** that ACC has established the NZIIS Programme Steering Committee to oversee the NZII implementation design and readiness phases, comprising representatives from ACC, MBIE, MSD, Inland Revenue, and the Service Transformation Unit

Noted

10. **Note** that the ACC Board has communicated a desire for Ministers to consider an evolution of NZII in the future and MBIE, ACC and MSD will work together to provide advice on the potential operation of NZII in due course

Noted

Governance and Oversight of work programme

11. **Note** the NZII work programme and governance arrangements set out in this briefing and provide any feedback on Ministerial preferences on the proposed work programme and governance arrangements to officials

Noted

Jivan Grewal

Policy Director

Labour, Science and Enterprise, MBIE

Hon Grant Robertson

Minister of Finance

..... / /

Hon Carmel Sepuloni

Minister for Social Development and Employment

..... / /

Background

1. NZII is a large complex project involving concurrent policy, legislative, and operational and implementation workstreams. The time frames for delivering NZII remain ambitious.
2. On 4 July 2022, Cabinet agreed to introduce NZII and to the detailed design [CAB-22-MIN-0250.02 refers], including the following key features:
 - coverage
 - entitlements
 - claimant and employer obligations
 - delivery and funding
 - dispute resolution
 - enforcement
 - governance.
3. Cabinet noted that the introduction of NZII will require a new Act of Parliament and authorised the Minister of Finance to issue drafting instructions to the Parliamentary Counsel Office (PCO).
4. Cabinet also 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 (DEV) by October 2022 on outstanding policy questions relating to:
 - coverage of self-employed workers
 - levy relief for low-income workers
 - aspects of the bridging payment
 - coverage of non-standard workers
 - whether to enable crisis payments
 - information sharing to support the operation of NZII.
5. Cabinet also noted that the design and implementation preparation phase is planned to run until June 2023, that the implementation phase is planned to begin in June 2023 **Confidential advice to Government** and invited Ministers to report back to DEV by November 2023 with a Better Business Case on implementing NZII for Cabinet's consideration.
6. Cabinet noted that the NZII Bill (the Bill) should be introduced no later than mid-December 2022 and agreed that legislation should be passed by July 2023.
7. MBIE officials will prepare initial drafting instructions for PCO to implement Cabinet's policy decisions by the end of July 2022.

There are some outstanding policy issues that require decisions

8. Cabinet noted that there are some outstanding policy issues to be reported back to Cabinet by October 2022 (outlined below in paragraphs 9-29). To inform further drafting instructions and Cabinet decisions officials will report back to Ministers on the issues outlined below by August 2022.

Whether and how to provide coverage for self-employed workers

9. 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. Cabinet requested further advice on whether and how self-employed workers could be included in the scheme [CAB-22-MIN-0250.02].
10. Officials are developing advice on the desirability and feasibility of bringing various categories of self-employed workers into the scheme, as well how the gaming risks can be mitigated with these groups. Our analysis will consider implications for a range of self-employed workers, from 'dependent' employee-like contractors through to the more genuinely self-employed and give careful consideration to boundary issues with regard to existing employment legislation.

Options for providing levy-relief for low-income workers

11. In April 2022, officials provided initial advice on mitigating the impact of the NZII levy on low-income workers. The advice canvassed options for levy relief, including introducing a progressive levy, increasing existing tax credits, and bespoke options (e.g., refunds).
12. At the SUIGG meeting on 13 June, Ministers requested further advice whether reducing the NZII replacement rate would generate sufficient savings to offset the cost of a progressive levy, which would provide levy relief for low-income workers.
13. The Cabinet paper proposed that the scheme would have an 80 percent replacement rate, funded by a flat-rate levy. However, the paper noted that Ministers would receive further advice on these settings and invited ministers to return to Cabinet if different settings were preferred.
14. Officials are developing further advice setting out options for changing the replacement rate to offset the cost of providing levy relief through a progressive levy (including a levy free threshold) or reducing the levy rate.

Whether to enable NZII to provide for crisis payments

15. Cabinet noted the intention for NZII to have the flexibility to deliver additional, Crown-funded support during crises, and that further advice will be provided on proposed legislative settings and the necessary operational capability to enable crisis payments [CAN-22-MIN-0250.02 refers].
16. A blueprint that provides for flexibility would improve how government can respond to a crisis, but we need to balance flexibility within some parameters for legislative design and operational feasibility. Officials will provide Ministers with possible options for

inclusion in the Bill and an assessment of those options. ACC have recommended that crisis payments should not be explored for Day 1 functionality, as doing so would add risk to delivering the core scheme.

Clarifying aspects of the bridging payment

17. Following Cabinet decisions and feedback, we will undertake further work to explore the scale of applying the bridging payment to migrants and other workers who are made redundant but not eligible for NZII. We will also identify what data is available to further inform our understanding of how existing contractual agreements with redundancy clauses may interact with the bridging payment.
18. Decisions on the above issues will inform and provide clarity for the roles and implications for other systems and agencies., e.g., the employment relations system and the role ACC may have in administering the bridging payment.
19. We welcome Ministers' direction as to whether there are any other aspects of the bridging payment, they would like officials to undertake further work on.

Coverage of casual work

20. A principles-based approach (cover the loss of income from reasonably anticipated work and entitlements will be based on an established work history) will be taken to the coverage of non-standard work, including casual workers.
21. The Income Insurance policy team will work closely with MBIE's Workplace Relations and Employment Standards policy team to ensure alignment with the Workplace Relations & Safety portfolio. It is not intended that this work will recommend changes to existing employment law related to the definitions of casual work rather identify ways and criteria for coverage for casual workers within existing settings.

Enforcement framework

22. It is expected that NZII will face similar types of gaming as the AC scheme, and therefore the offences contained in the AC Act are broadly appropriate. However, the maximum penalty levels in the AC Act in some cases are set at too low a level, for example, having been eroded by inflation since they were introduced over two decades ago.
23. The Cabinet paper established a framework for updating offences and penalties to manage scheme integrity, largely by replacing financial penalties with gain-related penalties. However, further work is needed with the Ministry of Justice to establish specific gain multipliers.
24. The detail on the broader suite of offences and penalties will also need to be worked through with the Ministry of Justice, and with MBIE's Workplace Relations and Employment Standards policy team to ensure alignment and system consistency, including with the Better Protections for Contractors project.

Information sharing to support the operation of NZII

25. Personal information will be central to the operation of the NZII once it commences, to maintain accurate levying, claims assessment, scheme integrity, and claimant transitions to other supports.
26. ACC will be able to seek personal information directly from claimants in many cases. However, without information sharing provisions ACC would duplicate information capture of other agencies, entailing additional fiscal costs, and imposing significant compliance costs on businesses and citizens, and barriers to people accessing entitlements and supports impacting on their experience of NZII.
27. Information sharing provisions will need to be developed to give legal effect to information sharing processes required for administering the scheme.
28. While drafting can begin now on this issue, some further work is required, including a Privacy Impact Assessment, in consultation with the Office of the Privacy Commissioner.
29. We will report back to Ministers in due course.

Summary of public engagement

30. In addition to reporting back on the above policy issues, we will also provide Ministers with a more comprehensive summary report of the public engagement on the proposed scheme undertaken earlier this year for the purposes of publication.

Governance arrangements for the next phase of work

31. It is a good time to consider the governance arrangements as we move into the next phases of work. Given the complexity and scale of NZII, it will be important to ensure coherence and alignment across these workstreams to meet deliverables and key milestones (Attachment 2 provides a diagrammatic overview of the governance arrangements).
32. For outstanding policy issues, the existing governance model will be used, with the policy development workstream working with social partners and the SE ILG and engaging the NZIIDCE Group as needed to find a joint Crown view ahead of discussions with the Leadership Group. The Leadership Group will provide oversight on progress of advice on outstanding policy issues and is ultimately responsible for the provision of advice to the Governance Group.
33. For approval of drafting decisions, MBIE policy and legal will work with ACC, Inland Revenue, and MSD to provide PCO¹ with drafting instructions. The DCE group will provide oversight of drafting decisions and process.

¹ Inland Revenue's drafting unit will provide drafting for any amendments to the Revenue Acts directly to PCO.

34. The NZIIS Programme Steering Committee will oversee the NZII design, implementation and readiness phases to ensure a successful outcome and to realise the investment on behalf of the ACC Chief Executive and Board. The NZII CE group will provide a point of escalation from the NZIIS Programme Steering Committee as the CEs accountable for the various delivery components of the NZII. Membership of on the NZIIS Programme Steering Committee includes DCEs from ACC, MSD, Inland Revenue, MBIE and the Service Transformation Unit.

Approach to working with social partners and the SE ILG

35. Social partners have an ongoing stake in the work, especially where the policy remains in development.
36. At the working level, we will continue to work with the social partners as we have previously done (and ACC, MSD, Inland Revenue) to develop advice on the outstanding policy issues.
37. For drafting legislation work, social partners will be provided with full drafts at the end of the process for consultation. This stage gives effect to agreed policy, which the social partners have already contributed to.
38. At a meeting with Ministers on 21 June 2022, the Iwi Leaders Co-Chairs expressed a desire to remain closely connected to the legislative and implementation work. Areas of interest identify by the Co-Chairs included (attachment 3 – Analysis for Pou Tangata on the New Zealand Income Insurance Scheme Impact on Māori report provides further detail):
- governance,
 - accountability to Māori,
 - Māori data,
 - delivery of the scheme,
 - tailored support for Māori business, and
 - impact of levy on low-income workers.
39. MBIE and ACC will work with the SE ILG to identify priority areas for the next few months and develop a plan accordingly.
40. Cabinet 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. We will also provide the SE ILG with drafts of the legislation and work with them on any Treaty provisions as appropriate.
41. **Free and frank opinions**
[REDACTED] we intend to seek direction from joint-Ministers about the scope for provisions and seek advice from the Te Arawhiti-convened Treaty Provisions Oversight Group. We will provide advice to Ministers on options for the scope and purpose of Treaty provision/s by mid-August 2022.

42. Ministers may wish to write to the Iwi Leaders Group reiterating their valuable contribution to the work and renewing their relationship for focus key areas of work for the next phase.

Implementation

43. Responsibility for the development of a Detailed Better Business Case (BBC) for the scheme has transferred from MBIE to ACC, as the orientation of the work has shifted from a strategic to an implementation focus. MBIE will continue to be involved in this work to ensure it accords with the policy agreed by Cabinet Confidential advice to ACC, in consultation with MBIE, will report to Ministers on the outcome of a planned Gateway review of a draft BBC in September, prior to presenting a final BBC for Cabinet approval in November.
44. Confidential advice to Government
[REDACTED]
[REDACTED]
[REDACTED]
45. Case management for the scheme is being led by ACC who are working on it with MSD. ACC and MSD are in the process of agreeing to high level principles to guide the work, including the responsibilities of each agency.

Active Labour Market Programme Review

Ongoing work with MSD on the further ALMP advice related to economic displacement

46. MBIE has agreed to work closely with MSD and involve ACC on further work, in particular to:
 - in the short term, identifying appropriate existing early intervention services that would benefit displaced workers, and any changes needed to eligibility or capacity of services to support greater demand.
 - in the longer-term, advice on any need to introduce new support or services to displaced workers most at risk of poor labour market outcomes, who are likely to require more intensive support. A portion of these will be people losing work due to the effects of health conditions or disabilities.
47. MBIE will also work closely with ACC and MSD on the work they have underway on the case management function for NZIIS, the process to enable referrals for claimants to existing employment services, and to enable information sharing between agencies to inform future advice on investment in supporting services.

Future Direction of NZII

48. The ACC Board has communicated a desire for Ministers to consider an evolution of the NZII scheme in future, beyond the currently agreed day 1 policy settings and towards an integrated, end-to-end scheme consisting of prevention, rapid response, targeted case management and with a clear focus on return to work.
49. MBIE, ACC and MSD will work together on this future vision and will provide Ministers with further advice on the potential future operations of the scheme – and ACC’s role – in due course.

Next steps

50. Discuss the work programme and approach to governance arrangements for the next phase of the work.
51. We will keep you informed on the progress of this work through the scheduled fortnightly joint-Ministers meetings.

Attachments

- Attachment 1: Meeting Agenda.
- Attachment 2: Overview of Governance Arrangements.
- Confidential information entrusted to the Government [REDACTED]
[REDACTED]

Attachment 1: Agenda, New Zealand Income Insurance

Meeting purpose:

To discuss the NZII policy and legislative work programme for the next six months, including the approach and scope for:

- drafting legislation and resolving outstanding policy issues
- working with social partners and the ILG
- governance arrangements.

Date	Tuesday 19 July 2022
Time	2.00-2.30pm
Venue	Beehive

Attendees	
Ministers	<ul style="list-style-type: none">• Hon Grant Robertson – Minister of Finance• Hon Carmel Sepuloni – Minister for Social Development and Employment
Officials	<ul style="list-style-type: none">• Chris Bunny, Ruth Isaac, Jivan Grewal, Libby Gerard, and Francis van der Krogt, MBIE• Simon MacPherson and Fiona Carter-Giddings, MSD• Stephen Crombie and Christina Sophocleous-Jones, ACC• Kerryn McIntosh-Watt, Inland Revenue

Agenda

Item	Discussion Point	Time
1	Minister only	5
1	Approach to drafting and resolving outstanding issues <i>Initial drafting instructions (based on June policy decisions)</i> <ul style="list-style-type: none">• Likely will need to clarify elements of agreed policy with joint Ministers throughout drafting process• Officials will provide advice on scope/purpose of treaty clauses by mid-August <i>Outstanding policy issues</i> <ul style="list-style-type: none">• Officials will provide further advice on outstanding policy issues (including self-employment and levy-relief) in August• We propose to explore key issues via a tripartite process and bring advice to the SUIGG, ahead of DEV decisions in September.	5
2	Approach to working with social partners and ILG <ul style="list-style-type: none">• For unresolved policy issues, we will work closely with social partners and ILG as we have previously	5

Item	Discussion Point	Time
	<ul style="list-style-type: none"> • For drafting legislation, social partners and ILG will be provided with full drafts at the end of the process for consultation. 	
3	<p>Governance arrangements for next phase of work</p> <ul style="list-style-type: none"> • Attachment 3 of the briefing paper sets out proposed governance arrangements for the different workstreams. • Officials propose that: <ul style="list-style-type: none"> ○ existing governance model is used for outstanding policy issues ○ DCE group provides oversight of drafting decisions and processes ○ NZIIS steering committee oversees the NZIIS design, implementation, and readiness phases. 	10
4	Closing	5

Papers:

New Zealand Income Insurance – post-June 2022 work programme [2223-0115]

Attachment 2: NZIIS Workstreams and Governance Arrangements



