



BRIEFING

New Zealand Income Insurance: Next steps given revised timing

Date:	6 April 2022	Priority:	High
Security classification:	Budget - Sensitive	Tracking number:	2122-3347

Action sought		
	Action sought	Deadline
Hon Grant Robertson Minister of Finance	Instruct officials to continue to develop legislation to enable ACC to undertake work on the NZII (the enabling Bill) and draft a Cabinet paper for early May 2022 seeking approval to introduce the legislation Agree to seek the Leader of the House's approval to include the enabling Bill as part of Budget night urgency	11 April 2022
Hon Carmel Sepuloni Minister for Social Development and Employment, ACC		
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	✓
Andrew Marshall	Principal Advisor, Income Insurance Policy		

The following departments/agencies have been consulted
ACC was consulted. Treasury was informed.

Minister's office to complete:

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 Withdrawn |

Comments



BRIEFING

New Zealand Income Insurance: Next steps given revised timing

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Purpose

This paper provides advice on the next steps for the New Zealand Income Insurance (NZII) project, following the decision to defer scheme implementation until after the passage of substantive legislation.

Recommended action

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

- a **Note** that officials had been working towards a Cabinet decision in early May on whether to implement NZII, accompanied by the introduction of legislation to enable the ACC to implement the scheme, with Cabinet decisions on detailed design to follow in late June / early July
Noted
- b **Note** that the early May decision was intended to allow a rapid scheme implementation, overlapping with the drafting and passing of substantive legislation on the scheme's design
Noted
- c **Note** that Budget Ministers have now agreed that any implementation of NZII would begin following the passage of substantive legislation, and 'go-live' in September 2025 (rather than December 2023 under the previous timeframe)
Noted
- d **Note** that the revised timeline reduces the need for ACC to implement NZII at the same pace as previously, meaning that an early Cabinet decision in May on whether to proceed is no longer necessary
Noted
- e **Note** Cabinet decisions on whether to proceed could therefore be made in late June / early July, allowing officials more time to assess the public submissions on the NZII proposal
Noted
- f **Note** that, since ACC is prevented from undertaking some NZII activities under its current legislation, there is still a requirement to pass enabling legislation to allow ACC to provide advice, design the scheme's operational specifications, develop the business case,
Confidential advice to Government
Noted
- g **Note** that, without enabling legislation, ACC would not be able to fulfil these roles fully until the passage of substantive legislation (mid-2023 at the earliest)
Noted

- h **Instruct** officials to continue to develop legislation (as previously agreed by Cabinet, CAB-21-MIN-0397 refers) to enable ACC to undertake work on the NZII (the enabling Bill) and draft a Cabinet paper for early May 2022 seeking approval to introduce the legislation

Instructed / Not instructed

- i **Note** the enabling legislation would not commit the Government to implementing the scheme, but would simply provide ACC with legal ability to continue preparatory work

Noted

- j **Agree** to seek the Leader of the House's approval to include the enabling Bill as part of Budget night urgency, given the relationship between the purpose of the Bill and Budget funding being provided to ACC to advance its preparatory work for implementing a scheme

Agreed / Not agreed

Privacy of natural persons

Francis van der Krogt
Acting Manager, Income Insurance Policy
MBIE

06 / 04 / 2022

Hon Grant Robertson
Minister of Finance

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Hon Carmel Sepuloni
Minister for Social Development and
Employment, ACC

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Hon Michael Wood
Minister for Workplace Relations and
Safety

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Background

1. The NZII discussion document was released on 2 February 2022, with submissions due on 26 April 2022.
2. Subject to allocation of funding through Budget 2022, and a decision to proceed with the NZII scheme, agencies had been working towards a 'go-live' in late 2023. A 'go-live' in late 2023 required implementation of the scheme in parallel with the development and passage of substantive legislation that would underpin the scheme.
3. Although ACC has limited authority to complete some degree of preparatory work to assess the implications and contribute to policy development, substantive work to implement an income insurance scheme is outside the scope of ACC's current functions as set out in s 262 of the Accident Compensation Act 2001 (AC Act).
4. Cabinet agreed to initial time-limited legislation being drafted to enable ACC to develop operational requirements for the scheme (CAB-21-MIN-0397 refers). This was planned to be passed as 2022 Budget night legislation subject to agreement from the Leader of the House, given ACC would not be able to expend funding provided at Budget for implementing the scheme without the legislative authorisation (BP 2122-2225 refers).
5. Budget Ministers have now decided that, subject to a decision to proceed, the scheme would begin operation in September 2025 allowing implementation to begin following the passage of substantive legislation. This mitigates a number of operational and policy risks. The revised timeframe ensures full consideration can be given to public submissions, and there is no longer a need to seek a decision in early May on whether to implement NZII. That decision can be sought in June.
6. If the Government decides to proceed with the scheme, the business case will still need to be finalised and agreed by Cabinet **Confidential advice to Government**
7. A key question at this stage is how best to proceed with enabling legislation to provide legal certainty for ACC to continue to undertake preparatory work for implementing the NZII.

Discussion

ACC is constrained by its current legislation

8. ACC's functions are prescribed by the AC Act, and broadly relate to the purposes of the AC scheme (refer sections 3 and 262 of the AC Act). ACC has been able to undertake pre-implementation work insofar as it has constituted consideration or planning to manage the implications of a government policy change, namely the introduction of an NZII scheme delivered by ACC, on the basis that this is "ancillary to and consistent with" its legislated functions (refer s.262(1)(d)).
9. To date this legislative authority has enabled ACC to undertake pre-implementation work to understand the implications for ACC for:
 - a. technology requirements
 - b. key aspects of scheme operation (including claim registration, case management and dispute resolution)
 - c. design features required for the scheme to work well for Māori
 - d. its assessment of risks and funding required for implementation.
10. This work has been integral to much of the development of the discussion document, the budget initiative, and business case to date.

There is still a requirement to pass enabling legislation

11. Parliamentary Counsel Office has drafted enabling legislation to authorise ACC to undertake work to develop the NZII. The draft legislation is currently being consulted with agencies, and the Pou Tangata Iwi Leaders Group.
12. While the enabling legislation was originally agreed by Cabinet to support the previous rapid implementation timetable, there is still a requirement to pass the enabling legislation, even with the revised timetable. The enabling legislation will allow the ACC to continue valuable pre-implementation work on a clear legal basis. The actual implementation of NZII would remain dependant on a Cabinet decision to proceed, Confidential advice to Government and the passage of substantive legislation to govern the scheme in around mid-2023.
13. Despite scheme implementation being held over to the passage of substantive legislation, there remains a substantial role for ACC in helping to shape the organisational specification, business case and future funding requests.
14. Further work is required over the coming year to support policy development and implementation design. This will involve ACC working with Māori and other partners to co-design how the scheme could be delivered to ensure positive customer experiences and outcomes, and planning the necessary technology activity to set up the scheme for success.
15. ACC is approaching the limits of what it can do under its current legislation. ACC is unable, for instance, to engage with people from priority populations to ensure that their voices and stories are incorporated into the scheme design. This is important work for ensuring the scheme is accessible, equitable, and upholds the principles of Te Tiriti o Waitangi from its outset.
16. Passing the enabling legislation would remove the current legal ambiguity about the limits of permissible pre-implementation work. The legislation, along with the Budget 2022 funding for ACC (subject to approval by Cabinet), would also enable ACC to continue and build on the current pre-implementation work, rather than standing-down project teams and losing value from work it has undertaken to date

Budget night remains the preferred opportunity to pass the enabling legislation

17. The existing proposal is to pass the enabling legislation as Budget night legislation. This remains subject to you seeking agreement from the Leader of the House.
18. This approach ensures enabling legislation is in place to coincide with funding being made available via Budget 2022, and allows ACC to maintain momentum on its pre-implementation work, including the development of the implementation business case, its contribution to policy design, and risk mitigation.
19. There are other opportunities to introduce and pass enabling legislation, such as later in the year coinciding with decisions on whether to proceed with the scheme. This would be a more straight forward process in some ways. However, this approach would either require placing the House into urgency solely to pass the enabling legislation or subject the bill to a potentially lengthy select committee process. Both of these options would limit the amount of work that ACC could undertake in the meantime and they are not recommended.

Confirming the scheme's detailed design

20. We propose to maintain the current policy and substantive legislation timetable to meet the revised implementation 'go-live' date of September 2025, subject to a Cabinet decision to proceed with implementing the scheme.
21. Officials are continuing to develop advice on elements of the scheme. This includes elements of the scheme not fully developed in the discussion document (such as governance

arrangements), or where the discussion document provides options (such as coverage of the self-employed), along with the detailed design of substantive scheme parameters. We have had meetings with a number of representative bodies and have already received a number of public submissions and survey responses on the proposals in the discussion document, which is informing the development of advice.

22. We propose to bring advice on these matters to the Social Unemployment Insurance Governance Group (SUIGG) in May and June. The SUIGG's discussions will inform subsequent Cabinet discussions in late June/early July on whether to proceed with the scheme, and on the scheme's detailed design. In parallel with the SUIGG process, there will be opportunities for ministers to engage with the Iwi Chairs Forum, ahead of taking decisions at Cabinet.
23. Subject to a Cabinet decision to proceed with the proposed scheme in late June / early July 2022, the Parliamentary Counsel Office would draft a substantive Bill, based on the agreed scheme design, for introduction to the House in late 2022, to enable passage of the Bill in around mid-2023. The ACC would begin substantive implementation after the Bill becomes law, aiming for a 'go-live' in September 2025.

Next steps

24. Subject to your agreement to continue to progress the enabling Bill, we propose that you:
 - a. seek the Leader of the House's agreement to include the Bill passage as part of Budget night urgency, given the relationship between the purpose of the Bill and Budget funding being sought;
 - b. instruct MBIE to draft a Cabinet paper for early May 2022 seeking approval to the Bill's introduction
25. The May 2022 Cabinet paper would not seek any agreement to proceed with the NZII scheme, and the proposed enabling legislation does not commit the Government to implementing the scheme. A decision on whether to implement the scheme would follow in late June / early July alongside scheme design policy decisions.
26. Subject to your instruction, officials in the week of 18 April 2022 will provide you with a draft Cabinet paper and Bill for your consideration and Ministerial consultation, prior to submission to Cabinet Legislative Committee on 2 May 2022.
27. The table below outlines the proposed updated project timeline.

Proposed project timeline

Date	Decision or action
26 April 2022	Consultation closes
Late April 2022	Cabinet decisions on Budget 2022 (Treasury-led process) – includes scaled funding for ACC and MBIE to continue work on the scheme. Confidential advice to Government
Week of 18 April	Officials provide draft Cabinet paper and Bill for Ministerial consultation
5/9 May 2022	LEG/Cabinet agrees to introduce enabling Bill to provide legal certainty for ACC to maintain pre-implementation work
19 May 2022	Enabling Bill passed, Budget funding announced, with initial 2021/22 funding made available to ACC to continue pre-implementation work
Early May and early June (TBC)	SUIGG meetings
Late June / July 2022	Cabinet decisions on whether to proceed with scheme, detailed scheme design, and approval to draft substantive Bill
November 2022	Cabinet decision on introduction of substantive Bill
December 2022	Introduce substantive Bill, and refer to select committee
June/July 2023	Expected report back from Select Committee on substantive Bill, legislation enacted; ACC initiates procurement of scheme build
September 2025	Go live for scheme