



Seafood New Zealand

Submission to Ministry of Business, Innovation, and Employment

A New Zealand Income Insurance Scheme

26 March 2022

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1. Seafood New Zealand Limited welcomes the opportunity to submit on the discussion paper for a New Zealand Income Insurance Scheme.
 2. Seafood New Zealand is a professional organisation delivering industry-good services for the wider benefit of the seafood industry, an industry which had export earnings of \$1.87 billion in 2021. Seafood New Zealand plays a role in developing and presenting the seafood industry's response on legislative and regulatory proposals affecting the industry.

General Comments:

3. Seafood New Zealand does not consider an income insurance scheme is necessary because, as noted in the document, the overall impact of these types of schemes internationally are uncertain. Furthermore, there might have been local factors that result in these schemes working better in countries that have a successful income insurance scheme in play.
4. There is also limited evidence that wage-scarring if happening, is happening due to unemployed workers having no unemployment insurance and therefore having to take low-paid jobs rather than spend more time looking for better paid work.
5. We also consider that the added costs to the employee, in a time where inflation is sitting at a high of 6.9% and cost of living is very high, is unacceptable.
6. This is largely a one-size-fits-all approach and there is no scope to address the diversity that is prevalent in society. This scheme creates significant potential in encouraging free-rider behaviour by both the employer and employee. All in all, the behavioural responses to such a scheme, and thus the size of the policy gamble being taken, are unknown.
7. We further question if there has been sufficient consultation time with all stakeholders during the creation of the scheme. The introduction of the ACC scheme in 1974 required a Royal Commission, and seven years of debate, however, we consider there has been only rudimentary analysis and consultation which is inappropriate for a scheme of this magnitude. The lack of hard evidence and of policy alternatives being considered by this discussion document is concerning.

Specific comments on the proposals:

Question 1: Do you agree New Zealand should introduce an income insurance scheme for displacement and loss of work due to health conditions or disabilities?

8. We do not agree that New Zealand should introduce an income insurance scheme for displacement and loss of work due to health conditions or disabilities.
9. As noted in the discussion paper, the New Zealand system lacks a support system which are commonly found overseas such as:
 - i) statutory notice periods for redundancy so workers have adequate warning of displacement
 - ii) adequate active labour market programmes to enable upskilling, retraining and reemployment.We consider that the utilisation of these the aforementioned tools might be a better starting point, on their own and where applicable, as they would represent less of a financial burden to the employees, especially those in the vulnerable/economically disadvantaged population.
10. Page 41 of the discussion paper lists the goals that the Forum hopes the insurance scheme will achieve. However, we question if some of goals are aspirational instead of being grounded in reality. There has been no indication that an income insurance scheme is the panacea for those goals. Some of the goals also appear to indicate that the insurance scheme is doing double duty as a wage subsidy scheme as well.
11. The existing system, where workers who are made unemployed become eligible for a welfare benefit, functions well and there has not been any constituency or group pushing for such an insurance scheme.
12. We would also question the potential opportunity cost that the \$3.54 billion, derived from what is essentially a 3% income tax increase, will incur. We consider that the Tripartite Forum should undertake a financial analysis to better understand the impacts of this opportunity cost.

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

13. The current redundancy clauses are covered by employment agreements and legal precedent, therefore, creating a much broader definition that potentially covers more people in diverse circumstances, and with significant potential rewards might result in the overexploitation of the system.
14. Furthermore, a question remains over whether existing redundancy provisions in employment contracts are superseded by this or whether the redundancy is in addition to this. Another issue is the extent that an employer can re-deploy a worker, without triggering the definition of displacement.

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

15. We agree.

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

16. We agree.

Question 9: Do you agree that income insurance should cover only the complete loss of a job, and cover situations where a person loses only one of several jobs that they hold?

17. We agree.

Question 10: Do you agree that insurance would be payable only where income loss was greater than a minimum threshold, such as a 20 percent loss of total earnings, counting income from all of their jobs?

18. We disagree as we do not see the rationale for that. The percentage threshold is irrelevant. If an individual loses a job, then they should be covered up to the pay for that particular job.

Question 11: Do you agree that it is important to provide income insurance coverage to non-standard workers, where practical?

19. We agree. If the individual has been paying into the insurance scheme, they should also get the full benefits of that scheme.

20. In saying that, we caution the potential inequity of this scheme because non-standard workers may also run the risk of not even meeting the eligibility requirement for insurance or receiving payouts that are inequitable. This would run counter to the goals of this insurance scheme.

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

21. Within the context of non-standard work, we would question how 'reasonably anticipated income' would be defined. Will things like overtime and commissions/piece rates be included?

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

22. The example given in the discussion paper refers to a largely straightforward case of an 'established pattern of work', but that may not necessarily happen in real life. We would also question how this term will be defined.

23. We also caution that this definition, along with the definition of 'reasonably anticipated income' may only be defined by the Court after a lengthy period of time and at considerable expense. This will cause undue hardship on both the employee and employer.

24. Furthermore, there is a trend towards increasingly flexible work arrangements such as gig-economy, and the usage of these two terms fails to reflect the future of work.

Question 14: Do you agree that income insurance should cover fixed-term and seasonal employees if they are displaced before the end of an employment agreement, with the duration of the payment running to the scheduled end of the employment agreement, or the maximum insurance entitlement duration, whichever is shorter?

25. The fundamental principle is that if someone loses their job they should receive a period of income support, then there is no principled basis to exclude such people, especially if they have been paying into the fund.

Question 15: Do you agree that income insurance should cover fixed-term and seasonal employees, where their employment agreements are not renewed, and they can show a regular pattern of work and reasonable expectation of future income

26. We question how the definition of 'reasonable expectation of future income' can be met. The word 'reasonable' carries a rather subjective meaning. If it is not the Courts that will be defining this, then it may be the case worker and there is the potential that biases may shape application of the law to the detriment of disadvantaged sections of society. ACC have found that they are biased against women, Māori, and Pasifika when approving claims.¹

Question 16: Do you agree that income insurance should cover casual employees who can show a regular pattern of work with an employer and a reasonable expectation of future income?
Question 17: How would these design choices work in practice? What risks can you see with the approach to establishing a regular pattern of work?

27. Please see previous comments regarding the issues with defining terms like 'reasonable expectation of future income' and 'regular pattern of work'.
28. On the risks involved with these insurance schemes, there is the moral hazard that people might change their behaviour to increase their eligibility for an insurance payout. They might take on jobs with higher redundancy risks, or be less motivated to look for work, because the consequences are now less severe.

Question 18: What risks do you see with covering, or not covering, people in self-employment?
Question 19: Are there some groups of self-employed who should and should not be covered?
Question 20: How can we practically distinguish between contractors who resemble employees and those with a high degree of independence?
Question 21: Because a self-employed person cannot technically be made redundant, what types of events would be appropriate 'triggers' for insurance payments?
Question 22: How do you think the levy should be collected from self-employed workers?

29. As stated in the discussion document, self-employed workers are often not included in the international variants of the scheme.

¹ <https://www.rnz.co.nz/news/national/445178/acc-biased-against-women-maori-and-pasifika-agency-s-own-analysis-shows>

Question 23: Do you agree with the proposed minimum contribution period of six months over a period of 18 months preceding the claim?

30. We believe that more analytical information must be shown in support for the numbers chosen.

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

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

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

31. We believe that more analytical information must be shown in support for the numbers chosen. These criteria could be quite disruptive to industries that rely on seasonal workers.

Question 27: Do you agree with limiting coverage of the proposed income insurance scheme to New Zealand citizens and residents?

Question 28: To ensure New Zealand workers are not disadvantaged by lower-cost international workers, do you agree that working holiday makers, international students and temporary work visa holders – and their employers – should contribute to the proposed income insurance scheme's costs?

32. We disagree with the notion that one must pay into a scheme that they will not benefit from. Migrant workers do not always come from advantaged backgrounds, and the portion of their salary that is taken as contribution for this scheme, which they will not benefit from, might result in an unequitable outcome for that individual and/or their families.

Question 29: Do you agree with a replacement rate set at 80 percent?

Question 30: Do you agree with a cap on insurable (and leviable) income set at the same rate as the accident compensation scheme (currently \$130,911)?

33. We question the rationale for the 80% threshold. The discussion document acknowledges that "even with an 80 percent replacement rate, some families may struggle to meet their regular outgoing costs when they have a 20 percent drop in income." Furthermore, the average replacement cap for international schemes sits at around 60%.

Question 31: Do you agree that only the insurance claimant's personal exertion income should affect their insurance entitlements?

Question 32: Do you agree that income insurance should have individualised entitlement, meaning a partner's income would not affect the rate payable?

34. The Forum recognised that a problem of the universal welfare benefit was that it abated depending on the partner's income, therefore, it would be inconsistent if the Forum was to then argue that a partner's income should affect the insurance payable.

Question 33: Do you agree that someone should be able to earn some income from paid employment before it affects their entitlements to income insurance?

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

35. We disagree on both counts. The Forum earlier argued that a problem with the welfare benefits system was that a person's additional payments on leaving work penalised them on becoming unemployed. It is, therefore, inconsistent of the Forum to argue for an

abatement setting to ensure that a person is not financially better off as a result of their lost work.

Question 35: Do you agree that insurance should be treated as income for assessing eligibility for income support such as main benefits and Working for Families tax credits and student support?
Question 36: Given the purpose of the In-Work Tax Credit and Minimum Family Tax Credit in encouraging people into employment and helping with in-work costs, do you agree that income insurance claimants would not be eligible for these tax credits?

36. We consider that further analysis into the impact that the insurance scheme will have on welfare and support is needed, especially around lower socio-economic demographics. We also note that the purpose of this scheme is ostensibly to protect workers, amongst other things, and this ineligibility would be inconsistent with that goal.

Question 37: Do you agree that income insurance claimants could also receive New Zealand Superannuation or the Veteran's Pension?
Question 38: Do you think a limit should be placed on the amount of time someone can receive New Zealand Superannuation or the Veteran's pension and insurance?

37. We believe that this might play into a moral hazard where there may be a strong incentive for businesses and workers approaching retirement age to orchestrate being laid off so as to receive a double income for six months.

Question 39: Do you agree that income insurance and Paid Parental Leave could be accessed sequentially but not at the same time?

38. We consider more analysis is needed to fully assess the impact.

Question 40: Do you agree that claimants should be able receive both ACC weekly compensation and income insurance at the same time for differing income loss subject to independently meeting the eligibility criteria for both?

39. We consider more analysis is needed to fully assess the impact.

Question 41: Do you agree with a base insurance entitlement length of six months, plus a four-week bridging payment paid by the employer?
Question 42: Would you support a longer or shorter length of base insurance entitlement?

40. We question the numbers used in defining the entitlement length and would prefer to have some more analysis before making a judgement.

Question 43: Do you think the scheme should allow extensions to the base period of income insurance entitlements for training or vocational rehabilitation?

41. We believe that the current welfare system allows for individuals to undergo training whilst receiving welfare. We also consider that if there is the impression that the current welfare system for training or vocational rehabilitation is lacking in any shape or form, reforming and improving what already exists may be preferable in terms of cost instead of implementing a new system.

Question 44: Do you agree that employers should give at least four weeks' notice to employees, and the insurer, before redundancy takes effect?

42. We believe that this requirement might be hard for certain sectors to meet, in particular, the more seasonal ones.

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

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

Question 47: Should the income insurance scheme finance bridging payments in circumstances where the payments are not forthcoming from employers, and refund employers for bridging payments if workers find work within this period?

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

43. Ultimately, looking at the period between 2002 and 2009, the OECD reported that slightly more than half of displaced workers in New Zealand had an average redundancy entitlement of about NZ\$28,000.² This would indicate that there is some form of protection that exists to protect the workers from displacement.
44. As noted in point 9 of Question 1, there are other options that can be considered on their own.

Question 49: Do you agree there should be no restrictions on the types of conditions covered by the scheme?

Question 50: Do you agree that all work arrangements should be covered (assuming other eligibility criteria are met)?

45. We believe that this proposal is beyond the scope of what was originally proposed as the flaws in the scheme for workers being laid off apply to a scheme for health or disability as well.

Question 51: Should the scheme cover partial loss of earnings due to a health condition or disability reducing work capacity?

Question 52: If partial loss is to be covered, do you agree claimants should have at least a 50 percent reduction of capacity to work caused by a health condition or disability and that reduction is expected to last for at least four working weeks?

46. We believe that extending unemployment insurance to disability or health conditions creates a strong incentive for workers wishing to move on from their work or approaching retirement to claim a health condition, and to leave work and take an extended break at 80% of their income.
47. Furthermore, there is also an existing welfare system that individuals can access and utilise. It may also be that workers on low incomes are provided with little or no benefit from the insurance scheme beyond what they are already eligible for.

² OECD, https://read.oecd-ilibrary.org/employment/back-to-work-new-zealand_9789264264434-en#page63

Question 53. Do you agree that the claimants' health practitioner should be main the assessor of work capacity?

48. As the discussion paper noted, and which we agree with:

Health practitioners can lack awareness of a claimant's work tasks, the workplace environment and how this interacts with the health condition or disability. GPs can also be conflicted between their role as health advocates and as health assessors on behalf of the insurance provider.

Question 54: Do you agree that, where appropriate, employers could provide supporting information to inform the claimant's work capacity assessment process?

49. If bridging payments are required, we are concerned with a potential conflict of interest.

Question 55: Are the current requirements on employers to make workplace changes sufficient to allow health condition and disability claimants to return to their regular employment (or alternative work)?

Question 56: How could employers be supported to help workers with health conditions or disabilities to remain in or return to work?

Question 57: Where an employee must stop work entirely because of a health condition or disability, do you think employers should be expected to keep a job open and help with vocational rehabilitation where a reasonable prognosis is made of return to work within six months?

50. How will 'reasonable prognosis' be defined? The word reasonable is subjective. Further, it may be unreasonable or impracticable to hold a job open for up to six months, particularly for SMEs.

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

Question 59. Do you agree that employers should only pay a bridging payment to employees leaving work because of a health condition or disability when the employment is terminated by the employer?

51. The discussion document itself notes the hypothesised pros and cons of implementing a statutory requirement. Without the use of supported analytical evidence, it is not feasible to answer this question.

Chapter 9: Insurance claimants' obligations

52. According to research published in the Australian Journal of Social Issues, work obligations that are tied to jobseeker benefits do not support a faster return to employment.³ There is no reason to assume that obligations tied to an income insurance scheme would either.

Chapter 10: Delivering income insurance

53. Part of this chapter touched upon the idea of an equitable transition to a more productive future, with the technological advancements that that entails. These sorts of transitions need bespoke industry-wide packages that include support for multi-year trades and university training, assistance with the relocation costs and new housing as well as income

³ <https://onlinelibrary.wiley.com/doi/abs/10.1002/ajs4.82>

support. Income insurance is a very small part of that transition, and it is debateable whether it is even fit for purpose.⁴

54. We also question if ACC has, firstly, enough case workers to accommodate the rise in cases that they will need to handle as a result of the insurance scheme; and secondly, addressed the biases found within ACC that was noted by ACC's own analysis.⁵ Although, we agree that they do have the capacity to handle this scheme.

Chapter 11: Funding income insurance

55. We have noted that there are other options in point 9 of Question 1 to consider because there is no current indication that an income insurance scheme is the answer to the issues brought up by this discussion paper.
56. There needs to be analysis for how an insurance scheme would operate where there are differential levies based of the level of risk. Not to have differentiated levy rates means that there is cross-subsidisation between industries – in particular, that industries with stable, long-term workforces effectively subsidise industries that are unstable a with a high churn of workers.

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⁴ <https://theconversation.com/why-is-new-zealands-labour-government-trying-to-push-through-a-two-tier-benefit-system-165615>

⁵ <https://www.rnz.co.nz/news/national/445178/acc-biased-against-women-maori-and-pasifika-agency-s-own-analysis-shows>