

# **Income Insurance Scheme (Enabling Development) Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill enables the Accident Compensation Corporation (ACC) to carry out work to bring an income insurance scheme into operation, should it be established under subsequent legislation. Nothing in the Bill is intended to limit or affect the scope or design of any scheme that may be provided for under such legislation.

That work will assist ACC to create a stronger and more efficient implementation platform for a scheme. The Bill includes a provision that recognises the Crown's commitment to the Treaty of Waitangi/te Tiriti o Waitangi principles. This includes partnering with, supporting, and empowering Māori to improve their lives. The Bill requires ACC to engage with employers, workers, and Māori, and to be purposeful in developing a scheme platform that will contribute to improving Māori economic and labour market outcomes. The Bill enables information sharing with other government agencies. This mirrors information access that ACC already has for the Accident Compensation scheme. The provisions are necessary to enable ACC to create and test systems and processes to ensure a scheme platform can be developed to be administratively efficient, provide timely and accurate service to clients, and have robust protection in place for personal information. Personal information can only be requested and used when absolutely necessary and ACC remains accountable under the Privacy Act 2020 to keep such information secure.

### **Departmental disclosure statement**

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2022&no=121>

### Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement on 5 May 2022 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <https://www.mbie.govt.nz/incomeinsurance>
- <https://treasury.govt.nz/publications/informationreleases/ris>

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause and brings the Bill into force on the day after the date on which it receives the Royal assent.

*Clause 3* repeals the Bill on the close of 31 March 2025.

*Clause 4* sets out the purpose of the Act, which is to enable the Accident Compensation Corporation (the **Corporation**) to prepare for the delivery of an income insurance scheme (the **scheme**).

*Clause 5* sets out how the Bill recognises and respects the Crown's responsibility to give effect to the Treaty of Waitangi/te Tiriti o Waitangi.

*Clause 6* defines various terms used in the Bill.

*Clause 7* allows for transitional and savings provisions that may later be added into *Schedule 1* of the Bill.

*Clause 8* provides that the Bill, when enacted, binds the Crown.

*Clause 9* sets out the Corporation's function and duties in relation to preparation for delivery of the scheme.

*Clause 10* sets out the purpose of *clauses 11 to 14* (the **authorised purpose**), which is to enable the government agencies listed in *Schedule 2* of the Bill (**specified government agencies**) to provide information to the Corporation and for the Corporation to use that information, and other information held by it, for the purpose of setting up and testing the systems and processes needed for it to implement the income insurance scheme.

*Clause 11* provides for criteria that must be met before the chief executive of the Corporation may request a specified government agency to provide information to the Corporation and how the request must be made. The criteria to be met differ according to whether the information is non-personal information (*clause 11(1)*), personal information that is within one of the categories listed in *Schedule 3* of the Bill (*clause 11(2)*), or personal information that is not within one of those categories (*clause 11(3)*).

*Clause 12(1) and (2)* authorise a specified government agency to provide information in response to a request for information if the chief executive of the agency considers that it is reasonable and practicable to provide the information, that the information is readily available, and that it is not undesirable to disclose it. *Clause 12(3) and (4)* empower a government agency to impose conditions on the provision and use of the information and require the Corporation to comply with the conditions imposed.

*Clause 13* provides for the Corporation to use information received from a specified government agency in response to a request for information.

*Clause 14* applies to information held by the Corporation, or that it has access to, under the Accident Compensation Act 2001. It provides for the Corporation to use this information for the authorised purpose, provided certain criteria are met. Under *clause 14(2)(a) to (c)*, these depend on whether the information is non-personal information, personal information that is within one of the categories listed in *Schedule 3*, or personal information that is not within one of those categories.

*Clause 15* specifies the status of *clauses 13 and 14* for the purposes of the application of privacy principles under the Privacy Act 2020.

*Clause 16* requires the Corporation to provide to the Privacy Commissioner copies of information requests made to specified government agencies, summaries of the information provided in response to those requests, and summaries of information used by the Corporation under the authority provided by *clause 14*.

*Clause 17* provides for the relationship between the Bill and the Accident Compensation Act 2001.

*Clause 18* provides a power to amend *Schedule 2*, by Order in Council made on the recommendation of the Minister, to include the names of other government agencies. *Clause 18(2)* requires the Minister to consult the Privacy Commissioner and be satisfied that the provision of information by the agency is necessary for the authorised purpose and that the purpose could not be met by using non-personal information.

*Clause 19* makes a consequential amendment to the Tax Administration Act 1994.



*Hon Grant Robertson*

# **Income Insurance Scheme (Enabling Development) Bill**

Government Bill

## **Contents**

|   | Page |
|---|------|
| 1 Title   | 2    |
| 2 Commencement  | 2    |
| <b>Part 1</b>   |      |
| <b>Preliminary provisions</b>   |      |
| 3 Repeal of this Act  | 2    |
| 4 Purpose   | 2    |
| 5 Treaty of Waitangi/Te Tiriti o Waitangi   | 2    |
| 6 Interpretation  | 3    |
| 7 Transitional, savings, and related provisions   | 3    |
| 8 Act binds the Crown   | 3    |
| <b>Part 2</b>   |      |
| <b>Preparatory work for income insurance scheme</b>   |      |
| 9 Corporation's function and duties in relation to preparation for delivery of scheme         | 3    |
| <i>Information sharing</i>  |      |
| 10 Purpose of sections 11 to 14   | 4    |
| 11 Requests for information   | 4    |
| 12 Provision of requested information   | 5    |
| 13 Use of information provided  | 6    |
| 14 Corporation may use information available under Accident Compensation Act 2001             | 6    |
| 15 Status of sections 13 and 14 for purposes of application of information privacy principles | 6    |
| 16 Requirements for disclosure to Privacy Commissioner  | 6    |

|    |  |    |
|----|--|----|
|    | <i>Miscellaneous provisions</i>                                  |    |
| 17 | Relationship between this Act and Accident Compensation Act 2001 | 7  |
| 18 | Power to amend Schedule 2  | 7  |
|    | <i>Consequential amendment to Tax Administration Act 1994</i>    |    |
| 19 | Principal Act  | 7  |
| 20 | Schedule 7 amended   | 7  |
|    | 42B Accident Compensation Corporation: income insurance scheme   | 7  |
|    | <b>Schedule 1</b>  | 9  |
|    | <b>Transitional, savings, and related provisions</b>             |    |
|    | <b>Schedule 2</b>  | 10 |
|    | <b>Specified government agencies</b>                             |    |
|    | <b>Schedule 3</b>  | 11 |
|    | <b>Information categories</b>                                    |    |

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Income Insurance Scheme (Enabling Development) Act **2022**.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent. 5

**Part 1**

**Preliminary provisions**

**3 Repeal of this Act**

This Act is repealed on the close of 31 March 2025. 10

**4 Purpose**

The purpose of this Act is to enable the Corporation to prepare for the delivery of an income insurance scheme.

**5 Treaty of Waitangi/Te Tiriti o Waitangi**

In order to recognise and respect the Crown's responsibility under the Treaty of Waitangi/te Tiriti o Waitangi, **section 9(3)** of this Act sets out requirements that the Corporation must meet in relation to Māori in performing its function under the Act to carry out all work reasonably required for it to be in a position to bring an income insurance scheme into operation. 15

|          |  |    |
|----------|--|----|
| <b>6</b> | <b>Interpretation</b>  |    |
| (1)      | In this Act, unless the context otherwise requires,—   |    |
|          | <b>authorised purpose</b> has the meaning given in <b>section 10</b>   |    |
|          | <b>chief executive</b> means the chief executive of the Corporation  |    |
|          | <b>Corporation</b> has the same meaning as in section 6(1) of the Accident Compensation Act 2001   | 5  |
|          | <b>income insurance scheme</b> or <b>scheme</b> means a scheme, intended to be established under legislation, to provide temporary income replacement to certain persons who suffer loss or partial loss of employment                                 |    |
|          | <b>non-personal information</b> means information that is not personal information   | 10 |
|          | <b>personal information</b> has the same meaning as in section 7(1) of the Privacy Act 2020  |    |
|          | <b>responsible Minister</b> means the Minister of Finance  |    |
|          | <b>specified government agency</b> means any department or other government agency listed in <b>Schedule 2</b>   | 15 |
|          | <b>workers</b> means employees and contractors.  |    |
| (2)      | In this Act, unless the context otherwise requires, any term or expression that is defined in the Accident Compensation Act 2001 and used, but not defined, in this Act has the same meaning as in the Accident Compensation Act 2001.                 |    |
| <b>7</b> | <b>Transitional, savings, and related provisions</b>   | 20 |
|          | The transitional, savings, and related provisions (if any) set out in <b>Schedule 1</b> have effect according to their terms.  |    |
| <b>8</b> | <b>Act binds the Crown</b>   |    |
|          | This Act binds the Crown.  |    |
|          | <b>Part 2</b>  | 25 |
|          | <b>Preparatory work for income insurance scheme</b>  |    |
| <b>9</b> | <b>Corporation’s function and duties in relation to preparation for delivery of scheme</b>   |    |
| (1)      | In addition to the functions specified in section 262 of the Accident Compensation Act 2001, a function of the Corporation is to carry out all work reasonably required for it to be in a position to bring an income insurance scheme into operation. | 30 |
| (2)      | Without limiting <b>subsection (1)</b> , the Corporation may—  |    |
| (a)      | design new systems and procedures (including, but not limited to, service delivery, organisational infrastructure, and technologies) to enable a scheme to be implemented; and   | 35 |

- (b) put in place the systems and establish the procedures described in **paragraph (a)**; and
  - (c) take any other action ancillary to and consistent with the function described in **paragraphs (a) and (b)**.
- (3) In performing this function, the Corporation must ensure that, as far as is reasonably practicable,—
- (a) the views of Māori are taken into account in the design of the systems and processes for the income insurance scheme to ensure that the scheme is accessible to Māori and responsive to Māori perspectives; and
  - (b) when the scheme commences, the Corporation will have the capability in the context of the scheme to contribute to improved Māori economic and labour market outcomes.
- (4) The Corporation must engage with Māori in good faith in meeting the requirements of **subsection (3)**.
- (5) The Corporation must also engage with representatives of workers and employers in the design of the systems and processes for the income insurance scheme to ensure that the perspectives of workers and employers are taken into account.
- (6) The responsible Minister may direct the Corporation to perform additional functions consistent with the purpose of this Act, in accordance with section 112 of the Crown Entities Act 2004.

### *Information sharing*

#### **10 Purpose of sections 11 to 14**

- (1) The purpose of **sections 11 to 14** is to enable specified government agencies to provide information (including personal information) to the Corporation and the Corporation to use that, and other information held by the Corporation, for the authorised purpose.
- (2) In **subsection (1)** and **sections 11 to 14**, **authorised purpose** means the purpose of assisting the Corporation to—
- (a) set up the systems and processes needed for the Corporation to implement the income insurance scheme; and
  - (b) test the systems and processes set up to implement the scheme; and
  - (c) take all other incidental steps or actions reasonably required to implement the scheme.

#### **11 Requests for information**

- (1) The chief executive may request a specified government agency to provide non-personal information to the Corporation if the chief executive reasonably

believes that the provision of the information is necessary for the authorised purpose.

- (2) The chief executive may request a specified government agency to provide personal information if—
- (a) the information is in one of the categories described in **Schedule 3**; and 5
  - (b) the chief executive reasonably believes that the provision of the information is necessary for the authorised purpose; and
  - (c) the authorised purpose could not be met by using non-personal information; and
  - (d) the chief executive has first consulted the Privacy Commissioner in relation to the information to be requested. 10
- (3) The chief executive may request a specified government agency to provide personal information that is not within one of the categories described in **Schedule 3** if the requirements in **subsection (2)(b) to (d)** are met in relation to that information. 15
- (4) A request under this section must—
- (a) be made in writing to the chief executive of the specified government agency (or the person occupying an equivalent position); and
  - (b) specify the section of this Act under which it is sought; and
  - (c) specify the reason for which the information is required; and 20
  - (d) specify the time within which the information sought is to be provided (which must be no less than 10 working days after the date on which the request is made).

## 12 Provision of requested information

- (1) A specified government agency that receives a request under **section 11** may provide the requested information to the Corporation if the chief executive of the agency (or the person occupying an equivalent position) considers that—
- (a) it is reasonable and practicable to communicate the information; and
  - (b) the information is readily available; and
  - (c) it is not undesirable to disclose the information. 30
- (2) **Subsection (1)** applies—
- (a) despite the requirements of the Privacy Act 2020 or any other enactment that might limit the disclosure of that information; and
  - (b) regardless of the terms of any approved information sharing agreement under the Privacy Act 2020. 35
- (3) The specified government agency may impose any conditions on the provision and use of the information that the chief executive of the agency (or person occupying an equivalent position) thinks fit.

- (4) The Corporation must comply with any conditions imposed under **subsection (3)**.

### 13 Use of information provided

The Corporation may, for the authorised purpose, use information (including personal information) provided to it by a specified government agency under **section 12**. 5

### 14 Corporation may use information available under Accident Compensation Act 2001

- (1) This section applies to information that the Corporation holds or has access to under the Accident Compensation Act 2001. 10
- (2) The Corporation may, for the authorised purpose,—
- (a) use non-personal information if the chief executive reasonably believes that the use of the information is necessary for that purpose:
  - (b) use personal information that is within one of the categories set out **Schedule 3** if— 15
    - (i) the chief executive reasonably believes that the information is necessary for the authorised purpose; and
    - (ii) that purpose cannot be met by using non-personal information; and
    - (iii) the chief executive has first consulted the Privacy Commissioner 20 in relation to the information to be used:
  - (c) use personal information that is not within one of the categories set out in **Schedule 3** if the requirements in **paragraph (b)(i) to (iii)** are met in relation to that information.
- (3) **Subsection (2)** applies despite anything in information privacy principle 10 25 set out in section 22 of the Privacy Act 2020.

### 15 Status of sections 13 and 14 for purposes of application of information privacy principles

**Sections 13 and 14** are authorisations for the purposes of sections 24 and 137 of the Privacy Act 2020. 30

### 16 Requirements for disclosure to Privacy Commissioner

- (1) When a specified government agency provides information under **section 12** the Corporation must, within 15 working days after receiving that information, provide to the Privacy Commissioner—
- (a) a copy of the request for the information; and 35
  - (b) a summary of the information provided by the agency.

- (2) When the Corporation uses information under **section 14** that it holds or that it has access to under the Accident Compensation Act 2001, the Corporation must provide a summary of that information to the Privacy Commissioner within 15 working days after the date of that use.

*Miscellaneous provisions*

5

**17 Relationship between this Act and Accident Compensation Act 2001**

Nothing in the Accident Compensation Act 2001, including, without limitation, sections 262 and 265 of that Act, limits the operation of this Act.

**18 Power to amend Schedule 2**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend **Schedule 2** by adding the name of a government agency. 10
- (2) Before making a recommendation under **subsection (1)**, the Minister must—
- (a) consult the Privacy Commissioner about the proposed use, for the authorised purpose, of information that may be held by the government agency; and 15
- (b) be satisfied that—
- (i) the provision of information by the agency is necessary for the authorised purpose; and
- (ii) if the information may include personal information, the authorised purpose could not be met by using non-personal information. 20
- (3) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

*Consequential amendment to Tax Administration Act 1994*

**19 Principal Act**

25

**Section 20** amends the Tax Administration Act 1994.

**20 Schedule 7 amended**

In Schedule 7, Part C, subpart 2, after clause 42, insert:

**42B Accident Compensation Corporation: income insurance scheme**

- (1) Section 18 does not prevent the Commissioner communicating information to a person who is an officer, employee, or agent of the Accident Compensation Corporation if— 30
- (a) the person is authorised by the Corporation to receive the information; and

- (b) the Corporation has reasonable grounds to believe that the disclosure of the information is necessary for the development of systems and processes for the implementation of the income insurance scheme; and
  - (c) the Commissioner considers that—
    - (i) it is reasonable and practicable to communicate the information; 5  
and
    - (ii) the information is readily available; and
    - (iii) it is not undesirable to disclose the information.
- (2) For the purposes of this clause, **income insurance scheme** means a scheme intended to be established under legislation to provide temporary income replacement to certain persons who suffer loss of employment. 10

**Schedule 1**  
**Transitional, savings, and related provisions**

**s 7**

**Part 1**  
**Provisions relating to this Act as enacted**

**5**

There are no transitional, savings, or related provisions in this Act as enacted.

**Schedule 2**  
**Specified government agencies**

**ss 6, 18**

Department of Internal Affairs

Inland Revenue Department

5

Ministry of Business, Innovation, and Employment

Ministry of Health

Ministry of Social Development

### Schedule 3

#### Information categories

**ss 11, 14**

- |   |  |    |
|---|--|----|
| 1 | Information that enables a person's identity to be verified, including name, gender, date of birth, and address  | 5  |
| 2 | Information about a person's—  |    |
|   | (a) ethnicity, including self-declared ethnicity:  |    |
|   | (b) employment, including details of a person's employment status and history to determine their eligibility under the scheme:   | 10 |
|   | (c) income during the period over which eligibility under the scheme will be determined:   |    |
|   | (d) date of death:   |    |
|   | (e) agent, that is, identification and contact details of an agent where a person chooses to use an agent to act on their behalf or does not have the capacity to act:                               | 15 |
|   | (f) visa status:   |    |
|   | (g) medical practitioner, that is, information that establishes that a person providing a medical certificate has the appropriate qualification and status to certify the opinion in the certificate | 20 |
| 3 | Case management information to assist with the Corporation's obligations to provide return work services   |    |
| 4 | Employer identification information  |    |