Proposed New Zealand Incomes Insurance Scheme to Increase Costs to Small Businesses

This week the Government announced details of a proposed new compulsory Income Insurance Scheme, one of its election promises in 2020.

If implemented, this far-reaching initiative would significantly change the rights of workers whose employment end on the grounds of redundancy or where employment is terminated (or work capacity is affected) due to disability or medical incapacity. The proposal, if implemented, would have far-reaching effects for family businesses.

The proposed Scheme would be administered by ACC. Workers and employers would both pay a levy estimated to be 1.39% of each employee's wages or salary, like how the ACC levies currently operate. Levies are capped reflecting the income payment cap under the Scheme. The Scheme would provide workers who lose their job through no fault of their own (such as a redundancy or termination due to illness) with income protection insurance payments for up to a maximum of seven months after they lose their job.

Any employer who ends an employee's employment on certain grounds must pay the employee four weeks' notice and then 80% of their usual salary or wages for a further four weeks after the notice period ends. At that point the income insurance payments of 80% of an employee's usual salary or wages commence for a further five months. A salary cap of $130,911 applies to payments under the Scheme.

The obvious cost to businesses would be the imposition of the 1.39% levy contribution on their workers' salary or wages. Further costs would include having to pay four weeks' notice for all eligible workers they let go (even if the worker's contractual notice period is shorter) and having to cover 80% of their pay for a further four weeks.

In our view, this may preclude businesses from wanting to restructure their operations, and businesses may feel pressured to keep staff and positions where there might not be genuine business need for them as a way of avoiding the compliance costs associated with making an employee redundant.

There does not appear to be any restriction on employees raising personal grievances if their employment is terminated but they benefit from the Scheme. For example, an employer who terminates an employee on the grounds of medical incapacity could be making payments under the scheme while also facing a claim for hurt and distress compensation from the same employee.

The stated rationale behind allowing workers to receive payments for up to 7 months is to allow them sufficient time to readjust and find a new job tailored to their skills and expertise. Case managers would be assigned to help recipients plan their return to work and connect them with available opportunities. In our view, having a lengthy payment period could disincentivise workers from looking for work or accepting suitable work available shortly after being made redundant.

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On the plus side for employers, it is expected few employees will challenge a redundancy termination when the Scheme would provide greater financial compensation than might be available for claims of unjustifiable dismissal.

Businesses can provide feedback on the proposed Scheme up until 26 April and we encourage members to take advantage of this opportunity. A link to the consultation documents can be found here: https://www.mbie.govt.nz/have-your-say/income-insurance/

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