

Motor Vehicle Accident Compensation Scheme

1. How was the Accident Compensation Commission Fiji (ACCF) Established?

The ACCF has been established as a body corporate under the Accident Compensation Act 2017 ('Act'), to make provisions for compensation in respect of persons who suffer personal injury or death as a result of a motor vehicle accident in Fiji. The Act and the new 'no fault compensation' scheme will apply to motor vehicle accidents in Fiji occurring on or after 1 January 2018.

The Accident Compensation Bill was discussed in Parliament on 11 July 2017, assented by the President on 14 July, and was gazetted on 18 July 2017. All members of Parliament supported the new legislation.

2. What is the rationale for the establishment of the ACCF?

One of the key reasons for the establishment of the ACCF is that the legislation governing motor vehicle accidents, the Motor Vehicles (Third Party Insurance) Act 1948, was very old.

Opposition Member of Parliament, Hon. P. CHAND made the following remark on the CTP class of insurance in Parliament on 22 May 2017.

"...the insurance cover is not adequate. Very archaic laws that were designed well before 1950s when we had 10 to 12-seater buses ... maximum claim of \$40,000 in totality but per person, it is only \$4,000. Buses are now up to 72 seaters....if the bus ends up in a crash....not even \$500 to \$600 per passenger".

"We have raised this many times....to do something overall with this archaic Act, so that the people of Fiji are not just left high and dry.

"...the cases go on and on and the legal practitioners will always try to delay the cases so that the witnesses die out, people die out and everyone just forgets about".

3. Do we have to still pay Compulsory Third Party (CTP) Insurance?

No, from 1 January 2018, as a vehicle owner, you do not have to pay CTP insurance anymore. Instead you will pay a Motor Vehicle Accident (MVA) levy.

4. What is the Motor Vehicle Accident (MVA) Levy?

The MVA levy is what you will pay as "premium" for being covered by the compensation scheme administered by the ACCF. Motor vehicle owners will pay the relevant MVA levy to the ACCF. The Land Transport Authority (LTA) will collect the levies in line with its existing vehicle registration process. The following MVA levies will be charged from 2018:

Class	Description of Motor Vehicle	MVA Levy (including VAT)
1	Private	\$63.00
2	Commercial	\$63.00
3A	Light goods – no passengers	\$126.00
3B(1)	Light goods – 11 passengers or less	\$126.00
3B(2)	Light goods – over 11 passengers	\$126.00
3C	Heavy goods – no passengers	\$126.00
3D(1)	Heavy goods – 11 passengers or less	\$126.00
3D(2)	Heavy goods – over 11 passengers	\$126.00
4	Taxi (not less than 4 passengers and not more than 5 passengers) and Licensed Hire vehicles up to 5 passengers	\$135.00
5A	Minibus (not less than 8 passengers and not more than 15 passengers) and Licensed Hire vehicles more than 5 passengers	\$248.00
5B	Omnibus (not less than 16 passengers)	\$306.00
6	Fire brigade, ambulance	\$77.00
7	Motor cycle	\$36.00
8	Trailer	\$36.00
9A	Motor trade plate	\$68.00
9B	Tow Truck	\$68.00
10	Rental (not more than 8 passengers)	\$171.00
11	Miscellaneous (tractor, hearse, roller, mobile equipment)	\$36.00
12	Administration Fee (alteration, transfer, duplicate)	\$15.00

5. Is the MVL more expensive than CTP?

No, the MVL is actually cheaper for vehicle owners than CTP.

6. What should you do if your Motor Vehicle CTP insurance is expiring on or after 1 January 2018?

All motor vehicles owners should enquire with the nearest LTA Office on how they should be paying the MVA levy applicable to their motor vehicle. The LTA is expected to charge the MVA levy as part of the registration (new/renewed) process for the motor vehicle.

7. What is the Benefit of Paying the Levy?

It allows for compensation under the *No Fault Compensation Scheme* by the ACCF without the need to establish fault or negligence, however, there are exclusions as listed in paragraph 13.

8. What Does the No Fault Compensation Scheme Cover?

The scheme provides compensation for any personal injury or death, as a result of an accident in Fiji involving your registered motor vehicle.

For Public Service Vehicles (PSV) the limitations under the repealed Motor Vehicles (Third Party Insurance) Act 1948 no longer apply, as PSV owners and passengers are now eligible for compensation of amounts similar to other classes of motor vehicles.

9. What does this mean for bus passengers?

Under the repealed Motor CTP Act 1948, the maximum payout was \$40,000 with a cap of \$4,000 per passenger. Under the ACCF regulations, the maximum payout is \$75,000 for each passenger.

10. Who is Covered?

- All passengers inside your registered motor vehicle at the time of the accident, including the driver.
- Any third party who suffered injury or death as a result of the accident caused by your registered motor vehicle.

11. What Compensation is Payable by the ACCF?

There is a choice to either accept the pre-determined amount (refer below), by lodging a claim for a lump sum payment with the ACCF OR to institute legal proceedings for compensation. The maximum amounts payable by the ACCF, in respect of personal injury suffered by a person as a result of a motor vehicle accident in Fiji are as follows:

- in the case of permanent partial incapacity \$75,000;
- in the case of permanent total incapacity, \$150,000; and
- in cases other than paragraphs (a) and (b), \$75,000.

The ACCF may make a lump sum payment of \$75,000 in respect of death suffered by a person (*refer Accident Compensation (Medical Assessment) Regulations 2017 for further requirements*)

12. To Whom, How and When Should an Application for Compensation be Made?

- An application claiming compensation must be made to the ACCF:
- using the application form which is available on the ACCF's website or at any of the ACCF's offices including all the documentation requirements; and
 - within 3 years from the date of the accident.

13. Exclusions Relevant to Compensation Claims made to the ACCF

Regulation 4 of the Accident Compensation Regulations 2017 states the following exclusions:

- an application claiming compensation for a person, where the motor vehicle is being driven by or is in charge of that person and who –
 - is driving under the influence of alcohol over the prescribed limit or under the influence of drugs;

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- (ii) is convicted of an offence of driving with an excess of alcohol or blood alcohol concentration over the prescribed limit;
 - (iii) fails or refuses to permit a breath test or a specimen of blood to be taken after being lawfully required to do so;
 - (iv) did not hold a valid driving licence authorising that person to drive the motor vehicle of the class or use for which it is registered; or
 - (v) has failed to comply with all the conditions of his or her driving licence;
- b) an application claiming compensation for a person who is convicted of an offence for any act or omission that directly caused the accident;
- c) an application claiming compensation for a person who suffered personal injury or death as a result of a suicide or attempted suicide;
- d) an application claiming compensation for any injury or death that did not directly arise from the accident;
- e) an application claiming compensation for the owner of a vehicle who, although has suffered personal injury or death as a result of the accident, had failed to pay the relevant levy as required by regulations for the payment of compensation for any personal injury or death as a result of an accident under the no fault compensation scheme.

The ACCF will not consider the following:

- a) an application claiming compensation where the applicant refuses to provide particulars and information as required by the ACCF;
- b) an application claiming compensation for a person who refuses to undergo medical assessment as required by the ACCF;
- c) a fraudulent application; and
- d) an application that has been previously determined by the ACCF.

14. Comparison of Key Features of the “CTP” Act 1948 and the AC Act 2017

	Motor Vehicles (Third Party Insurance) Act 1948	Accident Compensation Act 2017
Payment for Service	CTP Premium paid to Insurance companies	Levy paid through LTA
Cover Provided	Policy exclusions made system unfair for victims	“No fault” based scheme for victims with minimal exclusions
Claim for Injury Suffered or Death	Claim made to the insurance companies, some are paid and some end up in court	Claim made to ACCF, paid based on pre-determined amounts. Option to take legal action
Compensation	Paid only to third parties	Paid to any person who suffers injury or death
Passengers of PSV Vehicles	Total cover limited to \$40,000 or \$4,000 per person	Removed. Maximum compensation of \$75,000 per person for death.

Please contact info@accf.com.fj or telephone number 3347154 for further enquiries on the ACCF.

ACCF

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