



## Motorcycling New Zealand, Affiliated Clubs & Members National Liability Insurance Program

Liability Covers explained for Affiliated Clubs and Permitted Events,  
including claims scenarios

April 2019

This document is designed to provide information to **Affiliated Clubs, their members**, who receive automatic **Public & Statutory Liability** coverage under the Motorcycling New Zealand national program **only** when involved in a **Permitted event**. We encourage Club Secretaries to keep a copy of this document and distribute it to members.

We don't expect you to be an insurance expert, we are here to **help** you, so **call us**. All **Clubs** are encouraged to ensure they have their **own, adequate** insurance covers in place, we can help with that too, or simply provide **advice**.

This document will help explain:

1. Who is covered?
2. What is covered?
3. Clubs responsibility for Health and Safety
4. Understanding the change to Rural and Forest Fires
5. FAQ's
  - a. Club's hosting a Permitted race event
  - b. As a Rider am I covered for my Liability when competing in an event?
  - c. Am I covered during a private practice session?
  - d. Are we covered for track maintenance & event preparation?
  - e. Am I covered for non-riding activities organised by my club?
  - f. Are we covered when we build or do track maintenance in a Forest?
  - g. What if I damage equipment not owned by the Club or member for a MNZ event?
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#### Important Notes

The limits provided in this document are based on the policies renewed for the 31/12/2018 – 31/12/2019 period of insurance, though these can be amended at any time. Always refer to the current Certificates of Insurance loaded on the Motorcycling NZ website or contact Aon to confirm.

The summary of cover provides information about the Motorcycling New Zealand Insurance Programme. It is a summary and has been prepared for general reference only. Nothing contained herein prevails over the terms, conditions and exclusions of the policy. The policies with full conditions are available by contacting Aon or the Motorcycling New Zealand website [www.mnz.co.nz/regulations/health-and-safety/insurance](http://www.mnz.co.nz/regulations/health-and-safety/insurance)

Motorcycling New Zealand has arranged this insurance programme to provide benefits to those registered Clubs who, through injury or accident at a Permitted motorcycling event in New Zealand incur financial loss arising from the Club's negligence. The programme seeks to provide benefits to those most exposed and to maintain protection at the lowest possible cost. It therefore cannot provide 100% cover or a benefit for every loss that occurs. Government legislation prevents insurance companies from paying any insurance benefit for a medical service that is covered by ACC. In addition to these policies all members are encouraged to take out private health and income protection insurance.

The insurer for the Public Liability & Statutory Liability insurance is AIG Insurance New Zealand Ltd, and cover is arranged by Aon New Zealand.

## 1. Who is covered?

The national insurance program covers Motorcycling New Zealand and all affiliated clubs/organisations, members, officials, employees, volunteers, directors, technical personnel and accredited coaches for **Permitted** events only, this includes:

- Track maintenance in preparation for a **Permitted** event
- Setting up leading into a MNZ **Permitted** event and pack down post event
- The actual **Permitted** event

Additionally, **Participating Riders/Competitors** also have limited coverage under this program when competing in a Permitted event. This is explained further below.

## 2. What is covered?

The national insurance program has several liability policies, though the most relevant to Clubs, Members, Officials and Volunteers is the cover for:

### **Public and Product Liability**

This policy provides protection against legal liability to pay compensation for personal injury, property damage occurring in connection with a Motorcycling New Zealand **Permitted** event.

*Limit of Liability:* cover is provided up to a maximum of **\$10,000,000**.

*Excess:* each claim attracts a \$2,500 policy excess

#### **i. Competitor Exclusion**

This policy **excludes** all liability for **Personal Injury** or **Property Damage** to or of any Competitor or Participant directly or indirectly out of or in any way connected with the participation in, practice or preparation for any sporting activity, performance, game, contest, race or display.

### **Statutory & Employers Liability**

This policy provides cover for fines or penalties imposed for unintentional breaches of certain statute NZ laws, including the associated defence costs. Commonly this will be relation to Health and Safety breaches.

*Limit of Liability:* cover is provided up to a maximum of **\$1,000,000**.

*Excess (Statutory Liability):* each claim attracts a \$5,000 policy excess

*Excess (Employers Liability):* each claim attracts a \$2,500 policy excess

### **3. Clubs responsibility for Health and Safety**

Clubs/organisations/charities that have any paid employees (regardless of number) need to comply with the Health and Safety at Work Act 2015. Those that are run by 100% unpaid volunteers do not fall under the Act, though they are still required to act reasonably, without negligence.

Hosting a race event or any activity requires Clubs to adhere to all health and safety requirements to ensure the safety of all riders, marshals, volunteers, non-riders and the general public (including their property) is in place and observed.

Examples of this might be:

- pre-race or briefing to all riders
- traffic management plans, checks and procedures
- adequate first aid and marshal/volunteer training and accreditation where required
- safety barrier, signage and communication

### **4. Rural & Forest Fires – Liability Cover**

The Limit of 'Public Liability' Motorcycling NZ has covered under their policy is 10,000,000.

Although the policy wording shows a sublimit of \$250,000 for costs incurred and apportioned by any Fire Authority under section 43 of the Forest & Rural Fires Act 1977 (as per page 30 of the policy wording), this Act has been removed and replaced with the Fire and Emergency New Zealand Act 2017 (FENZ Act). Therefore, there is no sublimit applied and coverage is at a full \$10,000,000.

This statement is made for general purposes only and does not imply automatic coverage. Each and every claim will be reviewed on its individual merits by AIG Insurance New Zealand Ltd.

It is very important to note that those individuals who illegally light fires or leave a burning or smouldering substance to get out of control may now face the threat of criminal liability, possible imprisonment and hefty fines that are payable directly to the Crown, this is not covered under this policy.

#### **Property Damage caused to Landowners**

**Who is Insured:** Motorcycling New Zealand Incorporated, its **Members and Affiliated Clubs** for **Permitted events**, including **Participants**

Therefore, the Public Liability policy will respond to your activities for a Permitted Event and cover

- Members
- Affiliated Clubs and its officials
- Race Participants

**The Landowner:** Typically, Forestry Owners/Operators & Farmers will ask for a Certificate of Insurance showing Public Liability Cover, including for Rural & Forest Fires.

The MNZ policy covers your legal defence costs (if required) as well as the resulting property damage to the Landowners Property if you are found legal liable.

**IMPORTANT NOTE:** *Best Practice: It is our advice for both the Clubs and MNZ's own protection that if you are providing a landowner your Public Liability Certificate of proof of cover that the Club in return asks for a written agreement (even in an email) confirming that they (the landowner) will only hold you liable for a maximum of \$10,000,000. Many commercial forests will be worth more than \$10M and it is important both parties accept this limit of liability.*

### **So how does the policy respond in reality?**

We have tried to best express this through the below examples for both the Landowners and the Affiliated Clubs, Members, Officials and Participant Riders

**Scenario One:** Whilst doing track **maintenance in preparation** for a Permitted Event a hot chainsaw is put down at lunch time, causing a fire in a Commercial Forestry area.

**YES,** the Forestry Owner/Operator's own insurance may look to recover the loss from the MNZ Public Liability policy for the damage to the trees and other assets that has occurred due to the fire.

**Scenario Two:** Whilst doing track **maintenance in preparation** for a Permitted Event a hot chainsaw is put down at lunch time, causing a scrub fire to burn up the valley of a farm, which then also damages the farmers milking shed.

**YES,** the Farmer's own insurance may look to recover the loss from the MNZ Public Liability policy the damage to the Milking Shed and other assets that has occurred due to the fire.

It is uncertain how it will respond to the loss of the scrub trees in the valley as these are uninsured and have no value placed on them. This does not mean that some costs aren't awarded, though would be determined by an Assessor.

**Scenario Three:** After the track maintenance is completed leading up to a Permitted Event one of the **Officials is riding the track** to test it for safety. During this test they fall off the bike and the hot engine and fuel result in a Forest Fire.

**YES,** the Forestry Owner/Operator's own insurance may look to recover the loss from the MNZ Public Liability policy for the lost trees and other damage to other assets that has occurred due to the fire.

**Scenario Four:** During a race a **Participant Rider** falls off their bike and the hot engine and fuel result in a Forest Fire.

**YES**, the policy has been extended to include 'Participants' in a 'Permitted Event'. Therefore, the Forestry Owner or Farmers own insurance may look to recover the loss of the property damage that has occurred due to the fire from the MNZ Public Liability policy.

**IMPORTANT NOTE:** We highly recommend all riders insure their bikes, not only to cover them from theft and damage, though it is important when they are practicing and doing leisure riding that is not in a Permitted MNZ Event, they have a motor policy in place that will pick up their individual legal liability should they cause damage to another person's property. The above described policy coverage is only covering Participants in Permitted Events.

## 5. Frequently Asked Questions

*All claims and policy coverage will depend on the individual circumstance of each event and is always subject to the **acceptance of a claim** as well as the **terms and conditions of the policy**. The information provided below is to provide broad guidance. If in doubt please contact Aon.*

### a. Club's hosting a Permitted race event

**YES**, if you Club is hosting a Permitted event, then they are cover under the National Insurance program for Public & Statutory Liability covers. This includes the pre-race set up and post-race pack down activities.

Hosting a race event requires Clubs to adhere to all health and safety requirements to ensure the safety of all riders, non-riders and the public (including their property) is in place and observed.

The Public Liability responds to an incident which has resulted in property and/or personal injury that has been directly caused by the unknown negligence of the Club's race organisation, marshal/volunteer/employee/official. Examples of this are in the claims scenario section

### b. As a Rider, am I covered for my Liability when competing in an event?

**NO**, if your actions cause property and/or personal injury to another **Competitor** during an event that has been directly caused by you then there is **NO** cover under the Public Liability policy.

**YES**, if your actions cause property and/or personal injury to a **Spectator** during an event that has been directly caused by you then there **IS** cover under the Public Liability policy, including Punitive & Exemplary Damages.

### c. Am I covered during a private practice session?

**NO**, cover is only in place for **Permitted** events

### d. Are we covered for track maintenance & event preparation?

**YES**, you do not need to advise us of the days that you will be completing the maintenance or set up, but you must have already applied for and been issued with a MNZ **Permit**.

We would encourage Clubs to apply for **Permits** well in advance and advise MNZ off maintenance days.

In some instances when you are entering into Forestry, the forest owners insist that you have these days listed on your **Permit** as recce days, you need to add the recce days to your **Permit** application and these will be noted on the **Permit** once it is issued.

### e. Am I covered for non-riding activities organised by my Club?

**NO**, for other Club activities, for example a fundraising event day. Again, if in doubt call Aon and we can advise or potentially assist in providing cover.

**f. Are we covered when we build or do track maintenance in a Forest?**

**YES**, for track maintenance of a Forest track during the setting up/pack down period for a MNZ **Permitted** event.

**NO** cover is in place under the National Program to cover your legal liability should you cause a Forest fire or other damage/injury when building or doing maintenance to a Forest track when it is NOT for a **Permitted** event.

**g. What if I damage equipment not owned by the Club or a member for a MNZ event?**

**YES**, if you are using equipment not owned by the Club or a member for a MNZ **Permitted** event and the equipment is damaged during the event (pre/during/post) then there is cover under the Care, Custody or Control sub-limit of the Public Liability policy.

*Limit of Liability:* cover is provided up to a maximum of **\$250,000**.

*Excess:* \$500

**h. What if I cause damage to our Club property?**

**NO**, the Public Liability policy does not cover if you damage Club property/assets.

The Club needs to arrange the appropriate Property (Material Damage) policy to cover the Assets owned by the Club (Aon can assist Clubs with this cover).

**i. Is there a time limit in making a Liability claim?**

**YES**, if you believe there is a claim, or even a potential claim against you or the Club you should immediately contact Aon Insurance Brokers (see contact details) to notify them of the event or allegation.

For Statutory Liability claims or potential claims that you are aware of it needs to be notified in the current period of insurance 1<sup>st</sup> Jan – 31<sup>st</sup> Dec that you first became aware of the situation.

**j. Racing Overseas**

**NO**, you are not covered for practice or racing in overseas events. You do require a comprehensive Personal Accident insurance policy that meets FIM mins standards, additionally we recommend a full travel insurance for all other arrangements.

These **covers are available**, please contact Jason Bodmin for a quote and policy information.

**Jason Bodmin | Account Manager**

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## 6. Claims Scenarios

### Scenario One: Rider v Rider

Two riders are racing in an event, one comes off their bike, crashing into another rider damaging both their bikes, equipment and clothing.

#### Outcomes

- There is NO cover under the National Liability Program which has a 'Competitor Vs Competitor Exclusion'
- If the accident caused the death of a Licenced Rider (aged between 10-70 years partaking in a MNZ **Permitted** event), then there is 'Accidental Death' cover to a maximum of \$10,000 under the MNZ Licenced Holders Insurance Scheme which is self-funded by Motorcycling New Zealand

### Scenario Two: Marshalling Error

At an event a marshal sends a rider down the wrong track, leading the rider onto a dangerous section of track. The rider loses control and there is damage to the rider, their bike and equipment.

- The marshal has cover under the policy if it was an unintentional error.

### Scenario Three: Rider v Vehicle

A rider is racing in an event and loses control of the bike, which crashes into a parked vehicle on the side of the track, behind the barrier or designated track area. The rider damages the car, their bike and equipment.

#### Outcome

- Even though the Club has a sign erected at the entrance of the Motocross Track advising spectators that they are entering this area at their own risk, if the Club is found negligent in constructing a safety barrier or assigning the correct track area for the safety of spectators and property, then the policy will respond in their legal defence and potentially the damage to the spectator's vehicle to be repaired or replaced.

There is NO cover for the rider's personal injury, or bike & equipment damage.

### Scenario Four: Track Maintenance pre-race for a Permitted event

The Club has organised a track maintenance day and club members and volunteers are working on the track in order to get it ready for the up-coming **Permitted** event. Whilst digging into the hillside the ground becomes unstable and a landslip occurs. Damage is caused to the track, a house further down the hill and a third party's vehicle parked at the house.

#### Outcome

The Club's liability is protected; licenced members, unlicensed members and volunteers are covered. The item being worked upon is not covered (costs to repair the track) however the resulting damage (to the house and vehicle) is covered.

- Commercial Contractors engaged to build/maintain tracks are not covered under the Motorcycling New Zealand Policy. They should have their own policy in place which Clubs should request to sighting prior to work beginning.

### **Scenario Five: Fire in the forest (pre-during-post Permitted event)**

The Club have organised a track maintenance day in the forest prior to a **Permitted** event, to ready the track. There are club members and volunteers helping for the day. One of the people working on the track puts down a hot chainsaw at lunchtime. Over time the leaf litter smoulders and starts a fire, causing an acre of trees to be lost.

Outcome

- Anyone doing work on behalf of the club, is covered under the policy for their legal liability.

### **Scenario Six: Fire in the forest (pre-during-post Permitted event)**

After the track maintenance is completed leading up to a Permitted Event one of the **Officials is riding the track** to test it for safety. During this test they fall off the bike and the hot engine and fuel result in a Forest Fire.

YES, the Forestry Owner/Operator's own insurance may look to recover the loss from the MNZ Public Liability policy for the lost trees and other damage to other assets that has occurred due to the fire.

## *7. How to make a Claim*

- **Under no circumstances admit liability**
- Take detailed notes and information on the event and all parties involved
- Where practical gather contact information from a marshal/official or witness for future contact
- Contact Aon as soon as possible

## *8. Members Benefits*

We know you care about your bikes and as a valued MNZ Member we want you to have access to great benefits to protect your gear with the right insurance cover.....and at a great price.

- Motor bike(s)
- Car and Boat Insurance
- Home and Contents Insurance
- Landlords Insurance
- Travel Insurance

See the MNZ website for more details on Members Benefits

## *9. Our Contact Details*

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