

The Shopfront

YOUTH LEGAL CENTRE

Traffic Fact Sheet 9 – Traffic accidents

1 What should I do if I have an accident?

1.1 Stop immediately

If you have an accident, you must stop immediately.

It does not matter how small the accident looks.

1.2 Help anyone who is injured

If your car or motorcycle is involved in an accident, the law requires you to give whatever necessary help you are able to give, to anyone who has been injured.

If you don't stop when someone is injured in an accident, you could be committing a serious offence which may result in a fine up to \$3,300 and 18 months' imprisonment.

The maximum penalty increases to 7 years' imprisonment if someone has suffered grievous bodily harm, or 10 years in the case of death. For more details, see *Traffic Fact Sheet 7 – Serious traffic offences and courts*.

1.3 Give your details to drivers of other vehicles involved

If there is any injury or damage, you must stop and exchange particulars with the other driver, with an injured person or an owner of damaged property. Failing to do this may result in a fine (\$362 on-the-spot fine, or up to \$2,200 if dealt with by a court) and 3 demerit points.

See also "*Do I need to exchange information?*" below.

1.4 Call the police if it is a 'major traffic crash'

See "*Do I need to call police to the accident scene?*" below.

2 Do I need to exchange information?

2.1 If there is injury or damage

If there is any injury or damage, even if you are not asked to, you must provide your details to:

- The other driver;
- Anyone injured; and
- The owner of any property or vehicle damaged in the accident (unless you've already given your details to the driver of the damaged vehicle).

You should provide this information at the time of the crash if possible. You must provide it within 24 hours unless there are exceptional circumstances (e.g. you can't provide information because of injuries suffered in the crash).

Remember that you may also need the other driver's details in order to claim on your insurance (see "*Claiming insurance*" below).

2.2 If there is no injury or damage

Even if there is no injury or damage, if you are asked to, you must provide the owner or driver of any other vehicle involved in the crash with the following information:

- Your name, address and licence details;
- Your vehicle registration number; and
- If you are not the owner of the vehicle, the name and address of the owner.

2.3 Providing information to the police

You must also give information to the police if it is one of the situations set out in "*Do I need to call the police to the accident scene?*" or "*Do I need to report the crash to the police later?*" below, or if they ask.

3 Do I need to call the police to the accident scene?

Not always. You only need to call the police if the crash meets one of the following "major traffic crash" criteria:

- Someone has been killed, trapped or injured;
- There looks like considerable damage to property which is currently or likely to cause a hazard or obstruction;
- The driver of a vehicle involved doesn't stop or won't exchange details;
- The driver appears to be intoxicated.

For situations where the police do not need to be called, but a report needs to be made, see "*Do I need to report the crash to the police later?*" below.

4 Do I need to report the crash to the police later?

Drivers no longer need to report minor collisions which do not require a tow away, even for insurance purposes.

However, in some situations you will have to report the crash to the Police Assistance Line on 131 444, as soon as possible within 24 hours after the crash (unless in exceptional circumstances). If you cannot report within 24 hrs, a report needs to be made as soon as possible.

You must report the crash to the police if:

- For some reason, the police were not called to the scene of a "major traffic crash" as described above;
- Either your vehicle or another vehicle needed to be towed away;
- There is damage to property or injured animals; or
- You were unable to give your details to the owner or driver of any other vehicle.

You do not have to make this report if you cannot do so due to injuries suffered in the accident. However, a report needs to be made as soon as possible.

5 What information do I have to give to the police?

5.1 Information about a crash if asked by police

Even if you don't have to *report* the crash to the police, there is some information that you must give them if they ask.

If police ask for particulars about the crash at any time, you must give them:

- Your name and address;
- Name and address of the owner of the vehicle you were driving;
- The vehicle's registration number (if any);
- Any other information necessary to identify the vehicle; and
- (If known) information about any witnesses or the drivers of other vehicles involved.

You must also show police your driver licence.

Failure to do so can attract a fine (\$362 on-the-spot fine, or up to \$2,200 if dealt with by a court) and 3 demerit points.

5.2 If police suspect vehicle used in connection with an offence

If a driver is alleged to have committed a traffic offence, the police may ask the person who is responsible for (or has custody of) the vehicle for the name and address of the driver. This is often called the "form of demand".

Failure to provide this information (unless you genuinely don't know and it's unreasonably difficult to find out), or giving false information, is an offence with a maximum \$2,200 fine.

The police may also require information from owners, drivers and passengers if the police suspect on reasonable grounds that the vehicle is being or has been used in connection with an indictable offence (this would include some serious traffic offences as well as a range of non-traffic offences).

You may be required to disclose the identity of the driver or passenger(s) at the time of the alleged offence, and also the identity of anyone who was driving the vehicle a short time before.

Failure to provide this information, or providing false or misleading information, without a reasonable excuse, is an offence with a maximum penalty of 12 months' imprisonment or a \$5,500 fine.

6 Will I be fined or charged?

If you are responsible for an accident and it was not very serious, the police may give you a penalty notice (on-the-spot fine) or court attendance notice for an offence such as negligent driving. Negligent driving usually carries an on-the-spot fine of \$481 (or up to \$1,100 if dealt with in court) and 3 demerit points.

If someone is killed or injured, you may be charged with negligent or dangerous driving occasioning death or grievous bodily harm. The penalties for these offences can be severe and can include prison sentences.

See *Traffic Fact Sheet 7 – Serious traffic offences and courts* for more information about serious traffic offences.

7 Claiming insurance

7.1 General

After an accident, the information you gather and the way you behave may impact the insurance process. You should try to stay calm and avoid blaming anyone. Do not admit responsibility for the accident until you have spoken to your insurer.

For the purposes of insurance, at the scene of the accident you should record:

- The name, address, phone number and licence details of any drivers involved;
- The make, model and number plate of any vehicles involved;
- The contact details of anyone who witnessed the accident;
- Photos of the accident scene;
- Other details including the time, place, street lighting, weather, traffic conditions and anything else you think might have contributed to the crash.

For more detailed information, see the Legal Aid factsheet “*Crashed your car?*”:

<https://publications.legalaid.nsw.gov.au/PublicationsResourcesService/PublicationImports/Files/209.pdf>

7.2 If you or someone else has been injured

If you have been injured in a motor vehicle accident, you may be able to make a claim under the Compulsory Third Party (CTP) insurance scheme.

Even if the accident was your fault, call the States Insurance Regulatory Authority CTPAssist on 1300 656 919 for help with making a claim immediately, as *a strict time limit of 6 months applies to personal injury claims*.

If the accident was your fault and someone else was injured, claims for personal injury compensation will be covered by CTP as long as your car has a valid CTP policy.

For more information, see: <https://www.sira.nsw.gov.au/resources-library/motor-accident-resources/publications/injury-advice-centre/guide-for-people-injured-in-a-motor-vehicle-accident>.

7.3 Property damage

To cover damage done to vehicles, there are two types of property insurance: Comprehensive (which covers damage to your car as well as other cars and any other property that’s been damaged), and Third Party Property Insurance (which generally only covers the damage you’ve done to other people’s cars or property).

If you are responsible for the accident, and you are insured, it is your choice whether you claim on your insurance policy. If you make a claim, you may have to pay an excess and may lose your no-claim bonus. You should call your insurer and discuss your options. Most insurance companies do not impose a time limit for making a claim, but it is always best to begin this process as soon as possible.

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The information in this fact sheet contains a basic summary of the law in New South Wales. It is not legal advice. If you need legal advice, you should speak to a lawyer.

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