
[LEGAL NOTICE NO. 110]

ACCIDENT COMPENSATION ACT 2017

**Accident Compensation (School Accidents)
Regulations 2018**

IN exercise of the powers conferred on me by section 35 of the Accident Compensation Act 2017 and following consultation with the Accident Compensation Commission Fiji, I hereby make these Regulations—

PART 1—PRELIMINARY

Short title and commencement

1.—(1) These Regulations may be cited as the Accident Compensation (School Accidents) Regulations 2018.

(2) These Regulations come into force on 1 January 2019.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“Act” means the Accident Compensation Act 2017;

“authorised officer” has the meaning given in section 2(1) of the Education Act 1966;

“controlling authority” means the controlling authority specified in the certificate of registration or recognition of a school in accordance with section 16(9) of the Education Act 1966;

“late payment fee” means a fee of \$500;

“Ministry” means the Ministry of Education, Heritage and Arts;

“Permanent Secretary” means the permanent secretary responsible for education;

“pupil” has the meaning given in section 2(1) of the Education Act 1966;

“school” has the meaning given in section 2(1) of the Education Act 1966;

“school accident” means an accident that occurs—

- (a) on any school premises during normal school hours; or
- (b) at any venue during a school event or activity; and

“school premises” includes any school building, office, classroom, workshop, dormitory, hostel, kitchen, clinic and any play area or playground within the school compound.

PART 2—ACCIDENTS OCCURRING ON ANY SCHOOL PREMISES

Controlling authority’s duty to report injury

3.—(1) If a pupil suffers any personal injury as a result of a school accident, the controlling authority of the school must report the school accident and injury to the Permanent Secretary and the Commission within 14 days from the date that the controlling authority becomes aware of the school accident and injury.

(2) The controlling authority’s report under subregulation (1) must be hand delivered or sent by post or electronic mail to the Permanent Secretary and the Commission, or in such other manner as specified by the Permanent Secretary or the Commission.

Controlling authority’s duty to report death

4.—(1) If a pupil dies as a result of a school accident, the controlling authority of the school must report the death of the pupil to the Permanent Secretary and the Commission within 7 days from the date that the controlling authority becomes aware of the school accident and death.

(2) The controlling authority’s report under subregulation (1) must—

- (a) be hand delivered or sent by post or electronic mail to the Permanent Secretary and the Commission, or in such other manner as specified by the Permanent Secretary or the Commission; and

- (b) state the circumstances of the death of the pupil, if the circumstances are known to the controlling authority.

Controlling authority to issue demand notice

5.—(1) If a controlling authority fails to comply with regulations 3 and 4 without reasonable cause, the Permanent Secretary or an authorised officer must issue the controlling authority with a demand notice to obtain documents or information in the form prescribed in Schedule 1.

(2) If a controlling authority fails to comply with the requirements of a demand notice issued under subregulation (1), the controlling authority commits an offence and is liable on conviction to a fine not exceeding \$10,000.

PART 3—FIXED PENALTY NOTICE

Issuance of Fixed Penalty Notice

6.—(1) The Permanent Secretary or an authorised officer may issue a Fixed Penalty Notice to a controlling authority alleged to have committed an offence under regulation 5(2) by serving the Fixed Penalty Notice—

- (a) through registered mail sent to the postal address of the school last recorded by the Ministry;
- (b) at the school office; or
- (c) through any electronic means as approved by the Permanent Secretary, including by electronic mail to a valid electronic mailing address submitted by the controlling authority to the Ministry and verified by the Ministry.

(2) In these Regulations, service of the Fixed Penalty Notice is deemed to have been effected if the Fixed Penalty Notice is—

- (a) in the form prescribed in Schedule 2; and
- (b) served in accordance with subregulation (1).

Fixed penalty

7. A controlling authority to whom a Fixed Penalty Notice is issued is liable to a fixed penalty of \$1,000 and must, within 30 days from the date the Fixed Penalty Notice is issued, undertake one of the following actions—

- (a) pay the fixed penalty in a single payment or by instalments; or
- (b) elect to dispute the Fixed Penalty Notice in a court.

Failure to pay fixed penalty

8.—(1) If a controlling authority to whom a Fixed Penalty Notice is issued does not undertake any of the actions in regulation 7 within the prescribed period, the controlling authority is liable to pay the late payment fee in addition to the fixed penalty and where the controlling authority is—

- (a) an individual, the individual shall be issued a departure prohibition order preventing him or her from leaving Fiji; or

- (b) a body corporate, all the officers of the body corporate in Fiji shall be issued a departure prohibition order preventing them from leaving Fiji,

unless the controlling authority undertakes one of the following actions—

- (i) pays the fixed penalty and late payment fee in a single payment or by instalments; or
- (ii) elects to dispute the Fixed Penalty Notice in a court.

(2) If a controlling authority to whom a Fixed Penalty Notice is issued pays the fixed penalty and late payment fee, if applicable, and also elects to dispute the Fixed Penalty Notice in a court, the controlling authority must notify the Ministry, on or before the payment of the fixed penalty and late payment fee, if applicable, of the controlling authority's intention to dispute the Fixed Penalty Notice.

(3) If a controlling authority to whom a Fixed Penalty Notice is issued pays the fixed penalty and late payment fee, if applicable, and also elects to dispute the Fixed Penalty Notice and the court subsequently makes a final determination in the controlling authority's favour, including the determination of any appeal in any appellate court, the Ministry must refund the fixed penalty and late payment fee, if applicable, to that controlling authority.

(4) If a controlling authority to whom a Fixed Penalty Notice is issued does not undertake any of the actions in regulation 7 within the prescribed period, the Ministry must notify the Director of Immigration immediately after the expiration of the prescribed period.

(5) Upon receipt of the notification from the Ministry under subregulation (4), the Director of Immigration must issue to—

- (a) where the controlling authority is an individual, the individual; or
- (b) where the controlling authority is a body corporate, all the officers of the body corporate in Fiji,

a departure prohibition order stating—

- (i) the reasons for the issue of the departure prohibition order;
- (ii) the fixed penalty and late payment fee that the controlling authority is required to pay; and
- (iii) that the departure prohibition order may be revoked if the controlling authority undertakes any of the actions listed in subregulation (1)(i) and (ii).

(6) If a departure prohibition order is issued to a controlling authority under this regulation, the controlling authority to whom the departure prohibition order is issued may pay in full the fixed penalty and late payment fee that the controlling authority is liable to, to the Ministry or, if the controlling authority intends to leave Fiji, to the Department of Immigration at an international airport in Fiji.

(7) Pursuant to subregulation (6), if a controlling authority pays in full the fixed penalty and late payment fee that the controlling authority is liable to, the departure prohibition order is deemed to have been revoked and the controlling authority must not be prevented from leaving Fiji on the basis of the departure prohibition order issued under this regulation.

Failure to take action within 3 months

9. If a controlling authority to whom a Fixed Penalty Notice is issued does not undertake any of the actions provided in regulation 8(1)(i) and (ii) within 3 months from the date the Fixed Penalty Notice is issued, the Fixed Penalty Notice takes effect as a conviction and the Ministry may seek the maximum penalty for the prescribed offence from a court.

Made this 23rd day of December 2018.

A. SAYED-KHAIYUM
Attorney-General and Minister responsible for justice

SCHEDULE 1
(Regulation 5(1))

DEMAND NOTICE TO OBTAIN DOCUMENTS OR INFORMATION

Demand Notice Number:

1. Details of School	
Name:	
Address:	
2. Details of Documents or Information Required	
<p>I, [name of Authorised Officer], an officer authorised by the Permanent Secretary under regulation 5(1) of the Accident Compensation (School Accidents) Regulations 2018 hereby require you on or before the [specify day] day of [specify month], 20 [specify year] to produce the following documents or information to the Ministry of Education, Heritage and Arts and the Accident Compensation Commission Fiji:</p> <p>[specify documents and information]</p> <p>Failure to comply with the requirements of this Demand Notice on or before the date specified above is an offence under regulation 5(2) of the Accident Compensation (School Accidents) Regulations 2018.</p>	
3. Signature of Authorised Officer	
[signature of Authorised Officer]	Date: [day/month/year]
4. Affidavit of Service	
<p>I, [name of Authorised Officer whose signature appears in section 3], make oath and say that, on the [specify day] day of [specify month], 20 [specify year] at [specify address] I did serve upon the offender specified therein.</p> <p style="text-align: center;">[signature of Authorised Officer]</p> <p>Sworn by the above named Authorised Officer this [specify day] day of [specify month] 20 [specify year].</p> <p>Before:</p> <p style="text-align: center;">[name and signature of Commissioner for Oaths/Justice of the Peace]</p> <p>Commissioner for Oaths/Justice of the Peace</p>	

SCHEDULE 2
(Regulation 6(2)(a))

FIXED PENALTY NOTICE

Fixed Penalty Notice Number:

1. Details of Offender
Name:
Address:
2. Details of Offence
Statement of Offence:
Particulars of Offence:
Contrary to:
<p>This offence carries a maximum penalty of [\$]. If you do not wish to contest this Fixed Penalty Notice, you are required to pay the fixed penalty of [\$] to the Ministry of Education, Heritage and Arts.</p> <p>The payment of the fixed penalty is due within 30 days from the date of issue of this Fixed Penalty Notice and is payable at any office of the Ministry. If you pay the fixed penalty, all liability in respect of the offence will be discharged and no further action will be taken against you with respect to this particular offence.</p> <p>If you wish to contest this Fixed Penalty Notice, you may elect to dispute this Fixed Penalty Notice in court within 30 days from the date of issue of this Fixed Penalty Notice.</p> <p>If you fail to pay the fixed penalty or dispute this Fixed Penalty Notice in court within 30 days from the date of issue of this Fixed Penalty Notice, you will be —</p> <ul style="list-style-type: none"> (i) liable to a late payment fee equivalent to 50% of the fixed penalty, in addition to the Fixed Penalty; and (ii) issued a departure prohibition order preventing you from leaving Fiji. <p>You may pay your fixed penalty and late payment fee in a single payment or in instalments.</p> <p>The departure prohibition order will continue until you pay your fixed penalty and late payment fee in full or elect to dispute this Fixed Penalty Notice in court.</p> <p>If you do not pay your fixed penalty and late payment fee in full or elect to dispute this Fixed Penalty Notice in court within 3 months from the date this Fixed Penalty Notice is issued to you, this Fixed Penalty Notice will take effect as a conviction from the court and the Ministry may seek the maximum penalty from the court.</p>

3. Details of Authorised Officer	
Name:	Date: [day/month/year]
Signature:	
4. Affidavit of Service	
<p>I, [name of Authorised Officer whose signature appears in section 3], make oath and say that, on the [specify day] day of [specify month], 20 [specify year] at [specify address] I did serve upon the offender specified therein.</p> <p style="text-align: center;">[signature of Authorised Officer]</p> <p>Sworn by the above named Authorised Officer this [specify day] day of [specify month] 20 [specify year].</p> <p>Before:</p> <p style="text-align: center;">[name and signature of Commissioner for Oaths/Justice of the Peace]</p> <p>Commissioner for Oaths/Justice of the Peace</p>	