



Limitation Periods

The *Motor Vehicle (Third Party Insurance) Act 1943* requires an injured person to make a claim for compensation as soon as practicable following a crash.

A motor vehicle injury claim must be brought within a specified time limit. If legal proceedings have not been commenced prior to the time limit you may lose right to claim compensation.

The *Limitation Act 2005* governs the statutory time limits to commence civil proceedings including personal injury claims and fatal claims arising from motor vehicle crashes.

The Limitation Act was introduced to:

- Protect defendants from claims relating to incidents that occurred some time ago for which there may be no or little recollection and/or no records;
- Encourage plaintiffs to resolve disputes as quickly as possible rather than delay matters; and
- Assure defendants that after a fixed period of time no action can be commenced relating to a particular incident.

The limitation period for a personal injury claim for a legally competent adult commences from when that person is aware they have sustained an injury. This usually the date of the crash.

The *Motor Vehicle (Catastrophic Injuries) Regulations 2016* requires an application to participate in the CISS scheme to be made within three years after the day on which the accident occurred. The Commission may choose to extend that three year period in exceptional cases.

Fixed time limits to commence legal proceedings

General Rules

1. Personal injury claims

Section 14(1) provides that an action for damages for personal injury cannot be commenced if more three years have elapsed from the date the person is aware of the injury. This is generally the date of the crash.

2. Fatal Accidents claims

Section 14(2) provides that an action under the *Fatal Accidents Act 1959* relating to the death of a person cannot be commenced if three years have elapsed since the death.

Despite the above limitation periods, a court may extend the time to commence actions for personal injury or under the *Fatal Accidents Act 1959* even though the limitation period has expired.

Special Rules

There are special rules that apply if a claimant is under a certain age or suffering from a mental disability.

Claimant under 15 years old

Section 30 provides that a person under 15 years has six years to commence proceedings.

15 - 17 years old

Section 31 provides that a person above the age of 15 years but below the age of 18 years can commence proceedings up and until they turn 21.



Section 33 provides that where the defendant is in a close relationship with a person under 18 the limitation period is extended to age 25.

Section 41 provides that a Court may extend time to commence an action by a person under 18 with a guardian even though the limitation period has expired.

Over 18 years old

There are no current limitations.

Special Rules

Section 35 provides a limitation period of 12 years where the person is under a mental disability and without a guardian.

Section 36 provides that where the defendant is in a close relationship with a person with a mental disability the limitation period is three years after the relationship ceased.

Section 42 provides that that a Court may extend time to commence an action by a person with a mental disability with a guardian.