



THE NEWSLETTER
OF THE NZ
FEDERATION OF
MOTORING CLUBS

WHEEL TORQUE

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FOMC club liability insurance

Is this protection you can afford to do without? *Roy Hughes* explains...

While the officials of incorporated car clubs often believe they are protected from legal liability problems, they can still be named, sued and held personally liable to pay potentially large damage claims for a range of possible accidents and events.

The simplest of these could be if some club activity or action of a member causes damage to motor vehicles or other property owned by a third party, such as a barbecue getting out of control and setting fire to a crop or buildings.

Club officials also have the same responsibilities as directors or officers of limited liability companies to protect the interests of their members and properly manage the financial affairs of their club on behalf of its club members. They can be held personally liable for losses resulting from theft, fraud or failure to meet the various requirements of Government-imposed rules and regulations.

As in the Companies Act, individual club officers can be individually sued or held legally responsible for any defaults by their club and their own home/contents and motor vehicle policies do not cover this type of exposure.

Arranged in association with Barley Insurances Ltd, the Incorporated Societies and Clubs Liability insurance cover provided by the FOMC and offered only to incorporated members, protects the officers and the club in the event of a range of claims for compensation or other legal actions.

The 'Combined Association Liability Insurance' programme has been specifically designed and priced for the club members of the Federation and provides more extensive benefits than standard public liability cover.

The additional benefits are:

- *Fidelity Guarantee* – this will indemnify clubs should an officer or director or executive member steal club funds;
- *Accidental Death Benefit* – this covers the death of any club officer;



- *PR Costs Benefit* – covers the costs associated with dealing with media coverage of an event damaging to the reputation of the club;
- *Loss of Documentation* – sometimes club documents and memorabilia collections can be of some value. This benefit compensates for the costs associated with any loss of documents caused by the officers of the club;
- *Forest & Rural Fires Act Benefit* – if a club barbecue or other event causes a fire, this provision will pay any resulting fines or costs associated with a callout to the fire service;
- *Punitive & Exemplary Damages* – should the club or entity be grossly negligent and a court awards damages over and above the liability claim then there is an additional cover available;
- *Crisis Loss* – In the event that there is a major issue due to negligence an additional \$25,000 will be provided to cover associated financial losses;

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- *Broadform Liability insurance covers the financial costs to a club should there be accidental damage to some other party's property. But there are various extensions to cover a range of other potential claims against a club including Product Liability, Defective Design Liability, Landlord's Liability, Motor Repair and Storage Liability, Product Withdrawal Costs, Pollution Liability, Tenant's Liability, Welding Gas Cutting & Burning Off Liability.*

The details of some of those other extensions are:

- Motor repair and service liability – if a club member does work on another member's vehicle and, as a result of that repair, there is damage to that person's vehicle and subsequent damage to other people's property then the policy will pay compensation for that damage;*
- Product Liability – this will cover clubs for damage to third party property linked to any products they sell. Thus if you are selling motor vehicle spare parts, it is most important when organising Public Liability insurance that there is a declaration to that effect. Otherwise the insurer could have the right to decline liability on the basis that you did not disclose the fact that you were selling spare parts.*



Even the humble grass gymkhana is not immune to the risk of liability

It should be noted that the FOMC liability policy covers a club's activities and events, and the actions of its members whilst performing their duties at club events should they cause physical loss to another person's property. This does not diminish the necessity for club members to insure their own vehicles comprehensively.

The annual cost per club is \$330 + GST and the standard limits can be extended to fulfil specific club needs (i.e. \$2 million Public Liability to reflect tenancy or contractual requirements) for a nominal additional premium.

If you want your club to be covered by this insurance, it must be a member of the Federation of Motoring Clubs and an incorporated society. To find out more contact Barley Insurances, or fill in a proposal form from the FOMC website and send to Barley Insurances Ltd along with copies of your latest financial statements as provided to the Registrar of Incorporated Societies. As with all liability-type policies an annual declaration will be needed on the anniversary of the policy. If you have any questions or wish to consult with Barley Insurances about your requirements, the consultation is free to FOMC members.

Barley Insurances Limited
Phone (09) 8277 266
Email john@barley.co.nz
www.barley.co.nz

EDITORIAL

Biofuels shuddering to a halt?

Following on from our lead story in the last issue, and the subsequent election of the new National-led Government, the Minister of Energy and Resources, Gerry Brownlee, tabled a Bill to repeal the Biofuel Bill in accordance with the party's election manifesto.

The Biofuel Bill was only enacted in September 2008. It required oil companies to sell a minimum amount of biofuels blended in ordinary fuel, gradually rising to 2.5% of all transport fuel sold by 2012.

Mr Brownlee said: "There are a number of reasons why National wishes to repeal the biofuel obligation. The old law brings uncertain costs to consumers, [and] the Parliamentary Commissioner for the Environment warned against Labour's bill, saying...importing biofuel could contribute to hugely damaging environmental and social impacts in other countries."

Parliament passed the *Energy (Fuels, Levies, and References) Biofuel Obligation Repeal* bill under urgency just before Christmas.

That means oil companies are no longer required by law to sell biofuels. That may be of some relief to owners of older vehicles who were concerned about fuel system compatibility, but it would be wrong to be complacent.

The oil companies have spent a considerable amount of time and money developing biofuels for the NZ market, in anticipation of Labour's planned regulation. Gull are already selling 10% biofuel-blended 91 and 98-grade petrol at virtually all its North Island service stations. Mobil is also selling petrol/ethanol blends in Wellington, and BP is planning to introduce biodiesel in the upper North Island soon, after years of trials.

The repeal of the mandate takes some pressure off the oil companies to rush the introduction of biofuels, and possibly import them from less sustainable feedstocks (like food crops), in order to meet the sales target. In particular, we hope it will mean they will offer motorists a choice between biofuel and mineral blends, rather than introducing bio-ethanol in all petrol grades – and at higher blends – than many of the older vehicles in the fleet can support.

But it certainly does not mean that biofuels are dead or that you shouldn't pay close attention to the label at the pump; far from it.

Mark Stockdale, Editor & Secretary



PRESIDENT'S REPORT

For the second year in a row we did not have any submissions closing during the Christmas – New Year period, at a time when we are all busy with our friends and families. Long may it continue. Perhaps the election date had a bearing on this phenomenon!

The advent of the NZ Transport Agency has combined the functions of Land Transport NZ and Transit NZ into a single agency. Their website currently lists three topics open for public consultation. They are:

- *Traffic control devices manual; general requirements for traffic signs;*
- *S.H. No. 1 Blenheim to Ashley River Bridge transport study;*
- *Draft West Coast regional walking and cycling strategy.*

These topics would previously have been part of Transit's operation but now become part of the wider brief. Our submissions over the past years have been confined to Rule changes and matters that affect the use of heritage vehicles. Whether the Federation wishes to widen its scope to take into account the more practical issues previously dealt with by Transit NZ is a matter for debate.



Our Annual General Meeting is programmed for Sunday 3rd May and with our system of postal nomination and voting it is important to check your club's mail around mid-February when the first mailout (this one) is due and also late-March when the second should arrive. Nominations will be requested in the first mailout and these should be in the Secretary's hands by 22nd March.

I will be stepping aside as your president at the AGM as the constitution also provides for a maximum of four consecutive years for the officers of President, Secretary and Treasurer although this term can be extended by special resolution of the AGM if no nominations for the position have been forthcoming.

Jack Hindess, FOMC President

NEW FOMC ADDRESS

The FOMC has a new postal address. Due to secretarial and committee changes, it was necessary to obtain a more conveniently-located address. However, we will retain the PO Box in Hamilton for the foreseeable future, although we would ask that you update your contact details for the FOMC to:

**PO Box 24-225
Manners Street
Wellington 6011**

HAVE WE GOT YOUR CLUB'S CORRECT DETAILS?

Speaking of new addresses, please advise us if we have any of your contact details wrong. We have recently updated our membership database to include the new postal codes, but its possible some may be incorrect, or that your club has had a change in committee contacts in the meantime.

Please send any amendments to secretary@fomc.co.nz. Don't forget to include a contact email address so we can keep you updated on important news in between publication of the quarterly newsletter. As we are also in the process of issuing subscription renewals, you'll also have the opportunity to update any details when you return those forms.

EXECUTIVE COMMITTEE REPORT – 15 NOVEMBER 2008

The FOMC has received positive feedback from member clubs on the format of the new-look newsletter, and we welcome additional comments and suggestions for topics. As part of our ongoing plans to improve the profile of the Federation, the committee spent considerable time at its last quarterly meeting discussing efforts to grow membership by developing a recruitment brochure in 2009, and other promotional material for use at major shows and club events. To that end, we would welcome invitations from clubs for the FOMC to present at events or AGMs.

At the opposite end of the scale, the committee approved for the secretary to write to several long-standing non-financial clubs and advise they will be removed from the mailing list if subscriptions are not forthcoming.

The President also sent a letter on behalf of the Federation to Harry Duynhoven, thanking him for his contribution to the historic vehicle sector while Minister of Transport Safety.

- *copies of meeting minutes are published in the newsletter section of our website: www.fomc.org.nz*

LEGISLATION UPDATE

9.5c Regional Fuel Tax approved for Auckland. The outgoing Labour Government recently approved the country's first regional fuel tax, in Auckland. The tax was proposed by the Auckland Regional Council to fund rail electrification and other public transport.

The tax – on both petrol and diesel – will start at 2 cents per litre in July 2009, rising to 5c the following year and a maximum 9.5c/litre in July 2011, where it will remain until 2039. It will mainly be used to raise a loan for the ARC's half-share of a rail electrification bill of \$1 billion.



Legislation passed in 2007 allows similar taxes to be instituted in other regions; Wellington and Christchurch are likely to consider fuel taxes in the foreseeable future.

The following is a summary of some recent submissions we have completed on Member clubs' behalf:

Vehicle Equipment (Noise) Rule Amendment. This Rule proposed some tightening of standards around exhaust noise, amending the current Rule which only came into effect in June 2008. The proposals included a lower noise limit for certain vehicles, and a prohibition on noisy 'blow-off' valves.

Under the current Rule, the *stationary* decibel limit for cars is 95dBA (90dBA for new vehicles registered after 1 June 2008). That Rule also gave WoF agents the option of referring cars for an Objective Noise Test, if the inspector suspected the car was too loud. An ONT costs about \$150, and there are only about 9 sites nationwide authorised to carry out the metered noise test, although the owner can choose to repair the car instead.

But under the proposed amendment, if you failed the WoF you must undergo the ONT, and if you fail that you'll have to repair the exhaust to emit no more than 90dBA, instead of 95dBA. The police would also have the power to send owners through the same process, in which case the cars exhaust must be repaired to 90dBA even if the test proves it never exceeded 95dBA.

The FOMC was particularly concerned that these proposals could affect some club members with high-performance vehicles (e.g. muscle cars or modified road/race cars), and our submission reflected those concerns.

While we supported the ban on after-market noisy 'blow-off' valves, which are a nuisance only as they can be muffled without affecting performance (the proposal exempts original equipment externally-vented valves), we opposed the proposal for noisy vehicles to be repaired to 90dBA. We said it was a double standard to have a limit of 95dBA for cars registered before June 2008, but that

if those cars are modified and found to exceed 95dBA they must be repaired to a maximum 90dBA while others of the same year, make and model can remain up to 95dBA. We also noted vehicles re-entering service after May 2009 (when the amendment is proposed to come into effect), i.e. after restoration, are treated the same as vehicles entering service into NZ for the first time, and for this reason they should only be required to comply with the NZ stationary noise limit that applied at the time of manufacture.

We contended that if the vehicle's exhaust noise output exceeds 95dBA when fitted with its original (unmodified) manufacturer's exhaust, the exhaust system should not have to be made quieter than the original system in order to pass the objective test. And if the vehicles' exhaust has been modified and exceeds 95dBA, then it should only be required to be modified to the maximum limit that applied for that vehicle on entry to NZ – i.e. 95dBA if registered before June 2008, and 90dBA if registered after.

These proposals came about because of the ongoing public concern regarding noisy 'boy racer'-type vehicles. Campaigners from Christchurch (which has particular boy racer issues) had been effective in lobbying then-Transport Safety Minister Harry Duynhoven to propose these latest changes, even though they did not have widespread support. With the change of Government, we might hope that these draconian proposals will have less support at a ministerial level, however readers should note that one of the influential supporters of stricter noise standards is Christchurch-based *National* MP Nicky Wagner...



Omnibus Amendment Rule. This 'cover-all' Rule contained a number of minor technical amendments or corrections to other Rules, most of which we supported. However, the only proposal we opposed was a requirement to fit air brake pressure gauges to heavy vehicles (for safety reasons). We opposed this for heritage trucks and buses as it would detract from originality (and such vehicles don't feature in accident statistics anyway), and instead suggested that the amendment not apply to heavy vehicles which are exempted from the Transport Services Licensing Act, and Transport (Vehicle Registration and Licensing) Regulations.

- Copies of our submissions are available on our website: www.fomc.co.nz/current.html