

# ASIA PACIFIC

## Covid-19 Vaccine No Fault Compensation Schemes



This report examines the provision of No-Fault Compensation Schemes for injuries following Covid-19 vaccination across Asia Pacific

These findings are part of a wider project looking at global No-Fault Compensation Scheme carried out at the Centre for Socio-Legal Studies, University of Oxford.

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# Covid-19 Vaccine NFCSs in Asia Pacific

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## Introduction

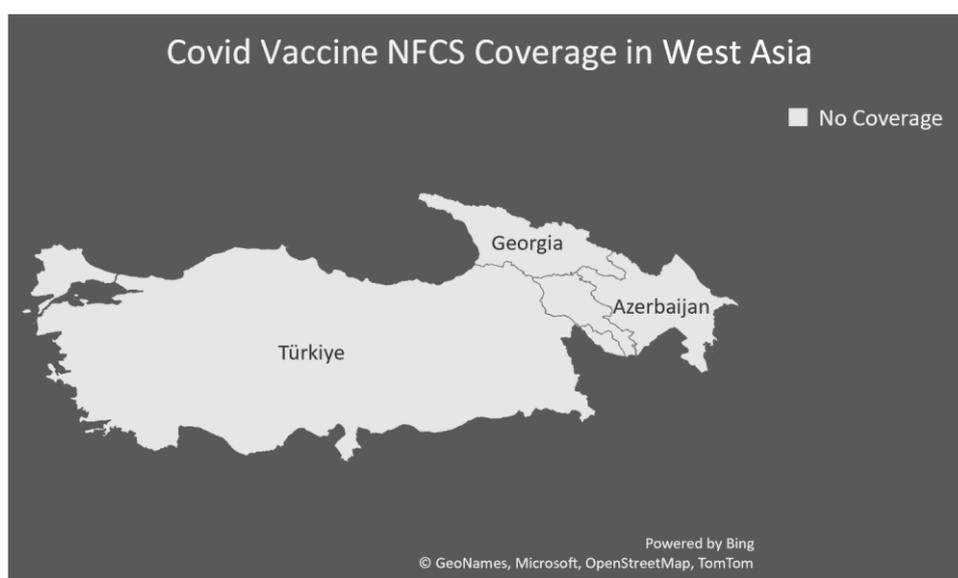
We have identified 29 national schemes that were offering no-fault vaccine compensation at the start of the pandemic in January 2020. Since then the number of jurisdictions with a no-fault compensation scheme which covers Covid-19 vaccines has increased almost five-fold. This is a rapid proliferation in NFCS which this project will research. The first stage of our research was to map NFCS landscape. This is one of a [series of reports](#) looking at global Covid-19 Vaccine No-Fault Compensation Schemes.

Asia Pacific is the most populous continent, it is home to over 60% of the world's population, around 4.8 billion people. Asia covers a large area, so for the purposes of mapping we have divided it into subregions; Central Asia<sup>1</sup>, East Asia<sup>2</sup>, South Asia<sup>3</sup>, South-East Asia<sup>4</sup>, West Asia<sup>5</sup> and Australasia<sup>6</sup>.

## Coverage of NFCSs

### Geographical Coverage

The map below shows the distribution of the different NFCSs.



There is no coverage in West Asia.

<sup>1</sup> Kazakhstan, Kyrgyzstan, Tajikistan, Tibet, Turkmenistan and Uzbekistan

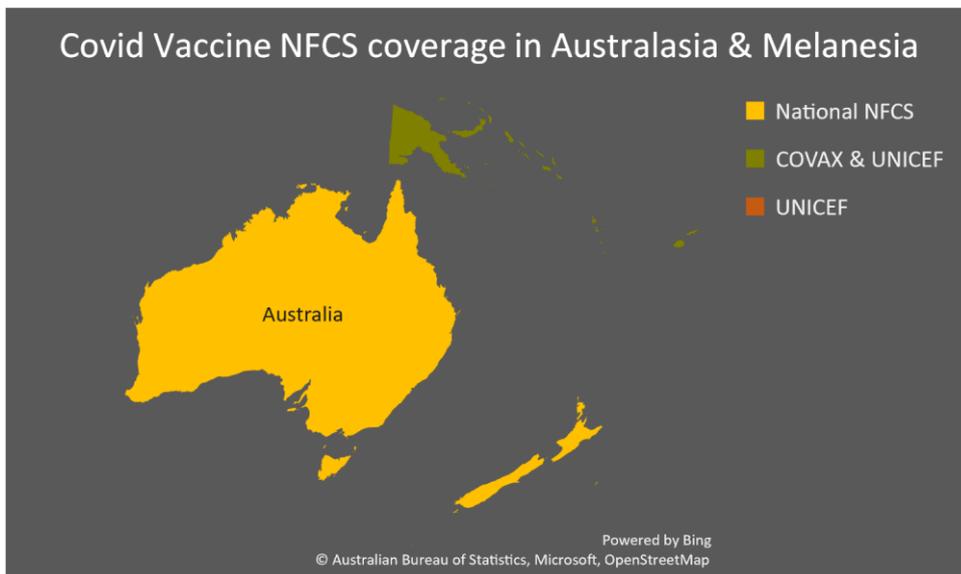
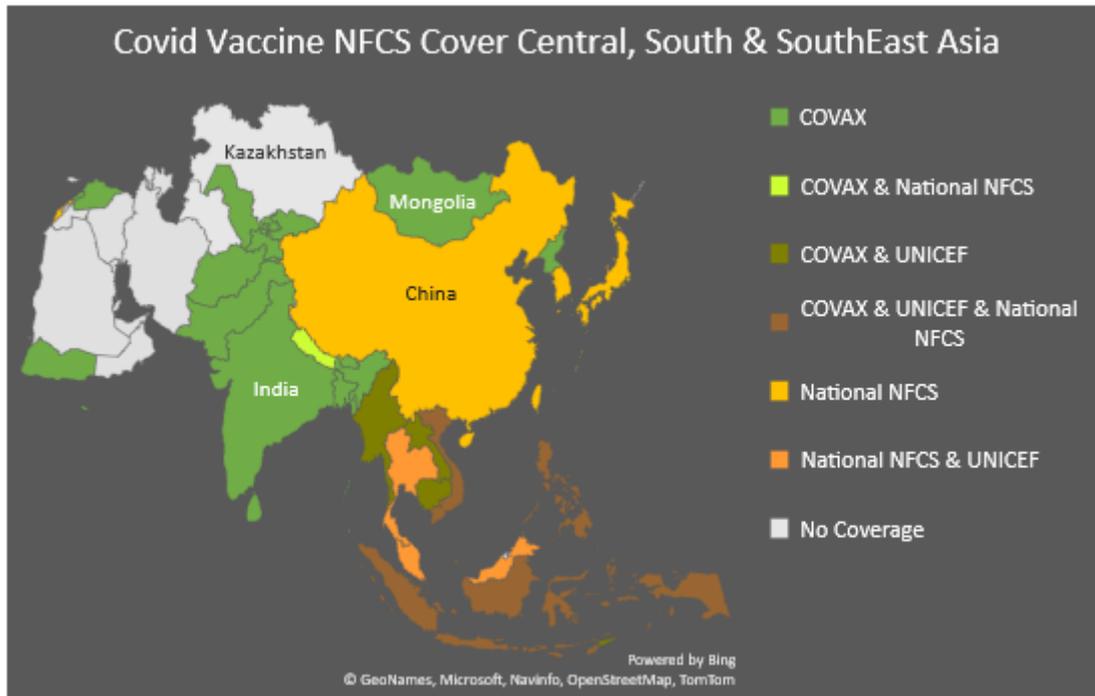
<sup>2</sup> China, Hong Kong, Japan, Macau, Mongolia, North Korea, South Korea and Taiwan

<sup>3</sup> Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka

<sup>4</sup> Cambodia, East Timor, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam

<sup>5</sup> Armenia, Azerbaijan, Georgia and Türkiye

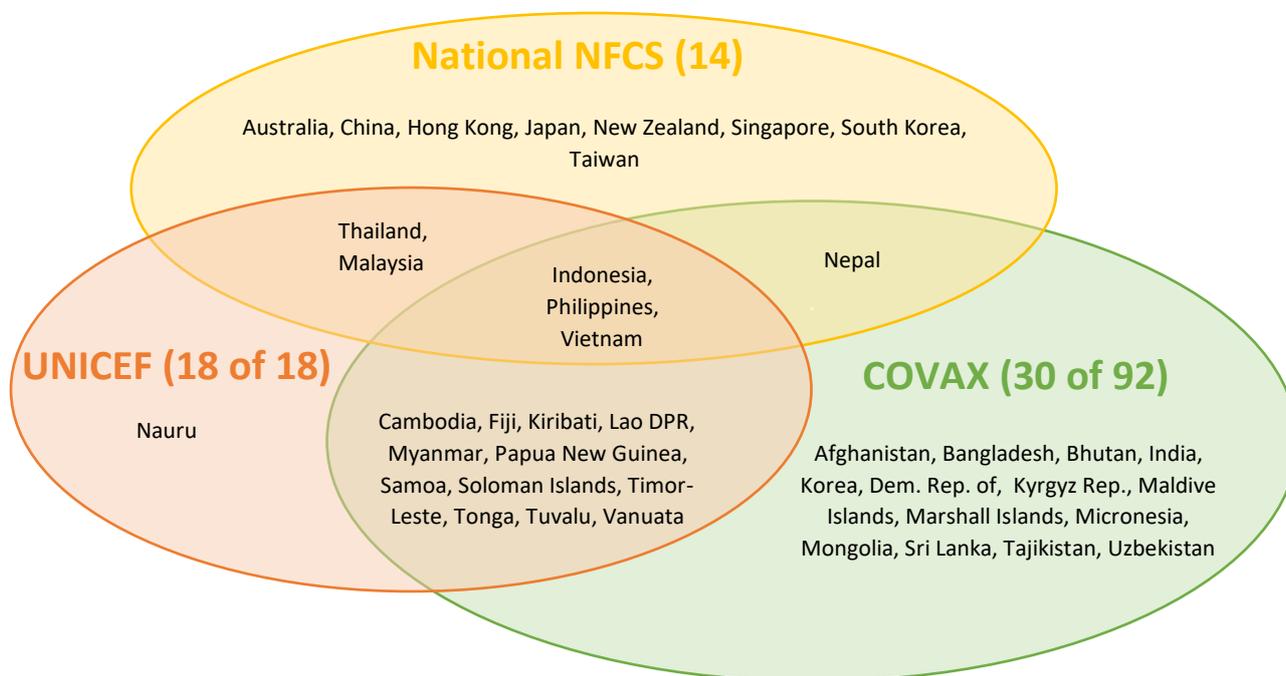
<sup>6</sup> Australia, New Zealand, Melanesia (including Papua New Guinea, Fiji, Nauru, Solomon Islands and Vanuatu), Micronesia (including Kiribati, Federated States of Micronesia, Marshall Islands and Palau) and Polynesia (including Samoa, Tonga and Tuvalu)



As you move towards Central, South and South-East Asia there is coverage. China and India, the first and second most populous countries in the world both have NFCS coverage. India is part of COVAX, China has a national NFCS. The UNICEF NFCS covers 18 Asian countries, mainly in South-East Asia.

Australia and New Zealand both have national NFCS, but the coverage in the surrounding island in Melanesia, Micronesia and Polynesia comes from the COVAX NFCS and the UNICEF NFCS where it exists at all.

The diagram below illustrates which NFCSs each country participates in.



### Vaccines covered

The fact that a jurisdiction has a NFCS in place does not mean that all vaccinations given in that jurisdiction are covered. There are a number of restrictions in all of the NFCSs. Full details can be found in the COVAX, UNICEF and National NFCS sections below.

### Summary

The NFCS coverage in Asia is patchy and heterogeneous. There is provision in place for the two most populous countries in the world, China and India. There are a number of national NFCSs; these include both higher income jurisdictions such as Australia, Singapore and South Korea and low and middle income countries such as Indonesia, Thailand and Vietnam. COVAX and UNICEF coverage is for low and middle income countries. COVAX coverage is distributed throughout Central, South and South East Asia and the smaller islands surrounding Australia. The UNICEF NFCS coverage is entirely South East Asia and the smaller islands surrounding Australia. Almost all of the countries which have UNICEF coverage are of are double covered either by COVAX or a national NFCS, Nauru is the only exception. However, the fact that a jurisdiction has some NFCS provision in place does not mean that there is coverage associated with every vaccination given in that country. Potential claimants will need to establish whether their vaccine was delivered under a program with an associated NFCS. The percentage of vaccines delivered under the COVAX and UNICEF programs is likely to vary between different jurisdictions, so there is no simple way to quantify the overall level of NFCS cover across Asia.

We have summarised our findings from the publicly available information on NFCS. There may be additional options for some vaccine recipients which we have not summarised. We are not party to the bilateral supply agreements between nations and manufacturers, and therefore we do not know what provision, if any, they contain for compensation for vaccine adverse events.



## Detailed findings by Country

Detailed findings for each jurisdiction that has NFCS coverage can be found below.

### Afghanistan

Afghanistan is a member of the COVAX NFCS.

### Australia

#### Introduction

Australia created a no fault compensation for covid-19 vaccines on 22 February 2021, effective immediately. This scheme was created under federal legislation, the [Financial Framework \(Supplementary Powers\) Regulations 1997 \(Cth\), Schedule 1AB, Part 4, Item 506](#).

It is administered by the Australian Government Department of Health and Aged Care. The funding for the scheme comes from the Federal Government.

#### Vaccines Covered

This NFCS covers nationally approved (Therapeutic Goods Administration approved) covid vaccines. It includes vaccines approved for emergency use and standard approvals.

#### Injuries Covered

This NFCS covers both temporary and permanent injuries. Generally claimants need to have received inpatient treatment for the vaccine adverse effect, but there is a waiver for this requirement in certain circumstances.

Under this NFCS only eligible injuries are covered. Eligible injuries are those which are fulfil all three of these requirements:-

- a. Diagnosed by a treating practitioner, and
- b. Included in
  - i. The product information; and
  - ii. Table 1 where the condition in column 1 results from a vaccine listed in column 2, and,
- c. was most likely caused by the COVID-19 Vaccine and less likely caused by any of the COVID-19 Vaccine Recipient's other circumstances

Table 1 of the [Scheme Policy](#) specifies

	<b>Column 1</b>	<b>Column 2</b>
<b>Item</b>	<b>Clinical condition</b>	<b>Person in whose name the relevant COVID-19 Vaccine(s) is included in the Register</b>
1	Anaphylactic reaction	AstraZeneca Pty Limited Pfizer Australia Pty Limited Moderna Australia Pty Limited Bioelect Pty Ltd (for registration of Novavax vaccine)

2	Thrombosis with Thrombocytopenia Syndrome	AstraZeneca Pty Limited
3	Myocarditis	Pfizer Australia Pty Limited Moderna Australia Pty Limited
4	Pericarditis	Pfizer Australia Pty Limited Moderna Australia Pty Limited
5	Capillary leak syndrome	AstraZeneca Pty Limited
6	Demyelinating disorders including Guillain Barre Syndrome (GBS)	AstraZeneca Pty Limited
7	Thrombocytopenia, including immune Thrombocytopenia, identified as a final diagnosis	AstraZeneca Pty Limited

### Charges for making a claim

There is no upfront charge for making a claim under this scheme, but a medical report from the treating doctor or hospital physician with the treating doctor's opinion on the diagnosed condition or injury and likely link to vaccination is required.

### Claimants

Under this scheme claim are categorised into three Tiers

Tier 1 – losses, not including any amount claimed for Pain & Suffering, of

- \$1,000-\$19,999 if a claim for Pain & Suffering is being made **or**
- losses of \$1,000-\$15,999 if Pain & Suffering is not being claimed.

Tier 2 – losses, not including any amount claimed for Pain & Suffering, of

- in excess of \$16,000 if a claim for Pain & Suffering is being made **or**
- losses in excess of \$20,000 if Pain & Suffering is not being claimed.

Tier 3 – death claims.

The following categories of individuals are permitted to make a claim.

#### Tier 1 Claims

- Live vaccine recipient
- their authorised representative (a lawyer or otherwise authorised representative)
- their legal representative (for example a parent of a minor, someone who holds Enduring power of attorney, etc)

#### Tier 2 Claims

- Live vaccine recipient
- their authorised representative (a lawyer or otherwise authorised representative)
- their legal representative (for example a parent of a minor, someone who holds Enduring power of attorney, etc)

### Tier 3 Claims

- Authorised representative (defined as a lawyer retained by a Tier 3 Estate)
- An Estate representative (an executor or administrator of the deceased's estate)
- A Family Representative (a close relative of the deceased, ordinarily a spouse or someone in a de facto relationship with the deceased, a parent, sibling, child, grandchild, uncle, aunt, nephew, niece (biological or through adoption or otherwise)) who can demonstrate they have notified the Estate Representative that they intend to make a claim under the scheme.

Under this scheme the claimant is allowed to nominate a legal representative to make their claim. Funding for legal representation is not provided by the scheme.

### Losses covered

There is a minimum claim value of \$1,000. This scheme pays the following

<b>Live vaccine recipient</b>	<b>Dependants of vaccine recipient</b>	<b>Estate of a deceased vaccine recipient</b>
Both <b>eligible economic and eligible non-economic losses</b> are compensated	<b>Compensation payments are for general categories</b> and are not broken down into economic and non-economic losses.	<b>Compensation payments are for general categories</b> and are not broken down into economic and non-economic losses.

The following categories of reimbursement are available:-

### Tiers 1 & 2 Claims

- Out of pocket expenses
- Lost earnings
- Pain & Suffering
- Gratuitous Attendant Care Services
- Paid Attendant Care Services
- Loss of Capacity to Provide Domestic Services

### Tier 3 Claims

- Funeral Expenses
- Tier 3 Dependant Lump Sum Payment **or** Tier 3 Non-Dependant Lump Sum Payment

Tier 3 Non-Dependent Lump sums are only available if the deceased had no surviving Dependants at the time of death but had at least one surviving Parent, Non-Dependant Child or Sibling at the time of death.

Payments consist of a lump sum payment.

Funeral expenses are available under this NFCS.

Compensation under this scheme calculated on an individual basis using maximum compensation guidelines set out in [Schedule 1 of the Policy](#) to assist with quantification. The Average Weekly Earnings specified in the Schedule is \$1,7367.10.

Loss of earnings are paid under this scheme. They are individualised but with a top cap of three times the Average Weekly Earnings Amount or \$5,211.30 ASD.

Some of the compensation elements under this scheme are not capped, including:-

- funeral expenses,
- Paid Attendant Care Services
- Out of pocket expenses.

Some elements of compensation under this scheme are capped with maximum compensation benchmarks set out in Schedule 1 of the Policy. These maximum compensation values are detailed below. Maximum compensation benchmarks cannot be exceeded in Tier 1 cases, but recommendations for higher awards that exceed these maximums can be made in Tier 2 and 3 cases.

<b>Compensation</b>	<b>Maximum Compensation Benchmark</b>
Lost Earnings	\$5,211.30 (3 x the Average Weekly Earnings Amount)
Gratuitous Attendant Care Services	If 40 or more hours of care per week the benchmark = the Average Weekly Earnings Amount If >40 hours care per week the benchmark = (the Average Weekly earnings/40) x the number of hours of care provided
Loss of Capacity to Provide Domestic Services	= (the Average Weekly earnings/40) x multiplied by the number of hours of lost domestic services (no maximum number of hours)
Pain & Suffering	\$693,500
Tier 3 Dependant Lump Sum Payment	\$644,640 + a payment for each dependent child*
Tier 3 Non-Dependant Lump Sum Payment	\$70,680.00, less any items or amounts paid by or owed by a Third Party Payer other than a life insurance provider, for example this could include a Tier 1 payment

\* If all of the dependants of the deceased are children then the additional payment will not apply to the oldest child.

#### *Tier 3 Dependant Lump Sum Payment*

Dependants is defined any of the following persons

- the person to whom the COVID-19 vaccine recipient was legally married, at the time the deceased COVID-19 vaccine recipient died
- a person who was in a de facto relationship (as that term is defined in section [4AA of the Family Law Act 1975 \(Cth\)](#)) with the COVID-19 vaccine recipient, at the time the deceased COVID-19 vaccine recipient died

- a child of the COVID-19 vaccine recipient (whether biological or derived from adoption or otherwise) who was wholly, mainly or partly dependent on the earnings of the COVID-19 vaccine recipient at the time the deceased COVID-19 vaccine recipient died
- a child born after the death of the deceased COVID-19 vaccine recipient where the deceased COVID-19 vaccine recipient is that child's parent (whether biological, derived from adoption or otherwise), and
- any other person that was wholly, mainly or partly dependent on the earnings of the COVID-19 vaccine recipient at the time the deceased COVID-19 vaccine recipient died.

The payment for dependent children varies in value as set out below.

<b>Years of age</b>	<b>Amounts of Compensation</b>
Under 1	\$61,288.00
Under 2	\$57,319.00
Under 3	\$53,368.00
Under 4	\$49,422.00
Under 5	\$45,464.00
Under 6	\$41,509.00
Under 7	\$37,555.00
Under 8	\$33,601.00
Under 9	\$29,655.00
Under 10	\$25,693.00
Under 11	\$21,741.00
Under 12	\$17,782.17
Not under 12 but under 16	\$13,831.00
Not under 16 but under 21 (full-time students)	\$13,831.00

#### *Tier 3 Non-Dependant Lump Sum Payment*

This payment is only available if there are no dependants. The priority for non-dependants is set out in table 3 of the policy and is as follows:-

<b>Scenario</b>	<b>The intended beneficiary is/are</b>
If, at the date of their death, the Deceased COVID-19 Vaccine Recipient:	
- was a Minor with a surviving Parent	All surviving Parents of the Deceased
- was not a Minor or was a Minor with no surviving Parents; and - had a surviving Non-Dependant Child.	All surviving Non-Dependant Children of the Deceased
- was not a Minor; - did not have any surviving Non-Dependant Children; and - had a surviving Parent	All surviving Parents of the Deceased
- was not a Minor or was a Minor with no surviving Parents; - did not have any surviving Non-Dependant Children or Parents; and - had a surviving Sibling.	All surviving Siblings of the Deceased

## Time limits for claims

The scheme does not set a time limit between vaccination and the adverse event occurring.

A claim under the scheme must be brought by the close of the scheme which is two years after the Human Biosecurity period specified in the [Biosecurity \(Human Biosecurity Emergency\) \(Human Coronavirus with Pandemic Potential\) Declaration 2020](#) (created under section 475 the [Biosecurity Act 2015](#)). The Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) Declaration 2020 ceased to have effect on 17 April 2022.

## Evaluating claims – standard of proof required

The standard of proof required by the scheme is that vaccine related harms are those which are 'most likely caused by the administration of the COVID-19 Vaccine and less likely caused by any of the COVID-19 Vaccine Recipient's other circumstances'.

All claims are initially assessed by Services Australia. Straightforward Tier 1 claims are then assessed by a Services Australia employee. Tier 2 & 3 claims and more complex Tier 1 claims are evaluated by a medical officer. Claims which are considered valid based on the medical officer's report are examined by an independent review panel comprising legal services providers with expertise in Personal Injury and/or administrative law. The panel make a recommendation to the decision maker on whether to accept or reject the claim.

## Appeals and the right to litigate

The right to litigate is not affected by use of the scheme - A claimant has a free choice to use the scheme or to litigate.

There is an internal appeals process where the NFCS itself reviews the decision. In the event of a request for a review of the decision the review is by a new panel different to the previous panel and the review decision replaces the original decision, regardless of whether it is more or less favourable

## Useful information and links

[COVID-19 Vaccine Claims Scheme | Australian Government Department of Health and Aged Care](#)

### Legislation

[Financial Framework \(Supplementary Powers\) Regulations 1997 \(Cth\), Schedule 1AB, Part 4, Item 506](#)

[Biosecurity \(Human Biosecurity Emergency\) \(Human Coronavirus with Pandemic Potential\) Declaration 2020](#)

[Biosecurity Act 2015](#)

## Bangladesh

Bangladesh is a member of the COVAX NFCS.

## Bhutan

Bhutan is a member of the COVAX NFCS.

## Cambodia

Cambodia is a member of the COVAX NFCS and the UNICEF NFCS.

## China

### Introduction

China had an existing no-fault compensation scheme for vaccines created 24 March 2005, and which incorporated covid-19 vaccines from 30 December 2020.

This scheme was created under national legislation. Originally it was under the Regulation on the Administration of Circulation and Vaccination of Vaccines 2005 (Order No. 668 of the State Council of 23 March 2005, which was updated in Order No 668 of the State Council of 23 April 2016. The main provisions for vaccine compensation are set out at Article 56 of the [Vaccine Administration Law of the People's Republic of China](#) (2019).<sup>7</sup>

Each province, autonomous region or municipality directly under the Central Government administers their own scheme. As such this is not a single scheme, but a collection of schemes created under local regulations but governed an overarching statutory framework.

The 2019 Law stipulates:-

- The administrative costs of the scheme are met by the financial departments the of provinces, autonomous regions or municipalities directly under the Central Government.
- Compensation for compulsory vaccines given under the national immunization programme is funded by the financial departments the of provinces, autonomous regions or municipalities directly under the Central Government.
- Compensation for voluntary non-immunization programme vaccines shall be paid by the vaccine Marketing Authorisation Holder. Covid Vaccines are voluntary non-immunisation programme vaccines. Vaccination against Covid is encouraged and vaccines are free.

The State encourages compensating vaccine recipients with adverse reactions of immunization through commercial insurance and other means.

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<sup>7</sup> Other (untranslated) laws and guidance relevant to vaccine compensation include:- [Order of the Ministry of Health of the PRC Identification Methods for Adverse Reaction Following Immunisation \(Order no. 60, 11 September 2008\)](#) (预防接种异常反应鉴定办法); [Civil Code of the People's Republic of China, Interpretation of the Supreme People's Court on Several Issues Concerning the Application of the Law in Hearing Cases of Disputes over Liability for Medical Damage \(Revised in 2020\)](#) (最高人民法院关于审理医疗损害责任纠纷案件适用法律若干问题的解释); and [Provisions of the Supreme People's Court on Several Issues Concerning the Application of Law to the Trial of Food and Drug Dispute Cases \(Revised 2020\)](#) (最高人民法院关于审理食品药品纠纷案件适用法律若干问题的解释)

### Vaccines Covered

This NFCS covers immunization programme vaccines.

It includes vaccines approved for emergency use and standard approvals.

### Injuries Covered

This NFCS appears to cover both temporary and permanent injuries. The [2019 Act](#) specifies

‘The State implements a compensation system for adverse reactions of immunization. Where, during or after the immunization process, a vaccine recipient suffers from harm including death, severe disability, organ and tissue damage, etc., compensation shall be given.’

This creates a two stage test:-

1. is the injury an ‘adverse reaction of immunisation’ as defined in the Act, and
2. is the injury a qualifying harm including death, severe disability, organ and tissue damage?

An adverse reaction of immunisation is defined in Chapter VI Article 52 of the [2019 Act](#):-

An adverse reaction of immunization is an adverse drug reaction that causes damage to the vaccine recipient’s body tissue, organ and functions during or following the standard process of administering a qualified vaccine, for which no party involved is at fault.

The following circumstances are not adverse reactions of immunization:

- (1) common reactions following immunization caused by the vaccine’s intrinsic features;
- (2) injury to the vaccine recipient due to sub-standard vaccine quality;
- (3) injury to the vaccine recipient due to the immunization entity's incompliance with the guidance for immunization, immunization procedure, vaccine use guidelines and immunization plans;
- (4) coincidental events following immunization in recipients who were in the latent period or prodromal period of a certain disease at the time of immunization;
- (5) acute relapse of underlying diseases or worsening of disease conditions in vaccine recipients who have immunization contraindications prescribed on the vaccine package insert and who or whose guardian fails to provide truthful information about his/her health condition and the contraindication for the vaccine prior to immunization;
- (6) individual or cluster psychogenic reaction as a result of psychological factors.

To qualify for compensation no relevant party must be at fault. The injury must not be a ‘Common reactions’ to a vaccine as these are not eligible for compensation. The Act does not define a common reaction. Similarly, this NFCS will only recompense injuries which cause ‘severe disablement’, but this is not defined any further in this Act.

### Charges for making a claim

There is no mention in the 2019 Act of a charge for making a claim under this scheme.

### Claimants

Under this scheme the following categories of individuals are permitted to make a claim.

- Vaccine recipient
- Representative of a vaccine recipient who is a child or under a disability
- Estate/representative of a deceased vaccine recipient.

The 2019 Act does not specify whether a claimant is allowed to nominate a legal representative to make their claim. This is likely to depend on the local vaccine compensation rules. Funding for legal representation may be provided by under some local compensation rules.

### Losses covered

The 2019 Act states at Article 56.

‘Compensation for adverse reactions of immunization shall be prompt, convenient and rational. The scope, standards and procedures of compensation for adverse reactions of immunization shall be determined by the State Council, while the specific implementation measures shall be formulated by the provinces, autonomous regions or municipalities directly under the Central Government.’

There is no consistent picture across China. Compensation is individualised - the 2019 Act specifies that the scope of compensation shall be adjusted based on the actual situation. However, the losses covered and the methods for quantifying loss differ by region. Lanfang Fei & Zhou Peng’s 2017 article reports considerable variation between the types of damage compensated and quantification methods used.

### Time limits for claims

The Act does not set a time limit between vaccination and the adverse event occurring, but there may be limits set in local vaccine compensation regulations.

The Act does not specify any time limits on when a claim can be brought, this is likely to be specified in local vaccine compensation regulations.

### Evaluating claims – standard of proof required

The Act specified that compensation shall be given if their condition is an adverse reactions of immunization or the possibility cannot be ruled out.

Claimants can supply any relevant clinical records and can refer to the [Reference Catalogue and Explanations for the Scope of Compensation for Adverse Reactions to Vaccinations \(2020\)](#), produced by the National Health Commission of the PRC, to support their claim that their reaction is, or cannot be ruled out as, a vaccination-related abnormal reaction.

Appeals and the right to litigate

This scheme is a removes the right to litigate for vaccine abnormal reactions.

No information is available on an appeal process in the Act. Local processes will apply.

Useful information and links

There is variation between the data produced by each local scheme.

## Legislation

[Regulation on the Administration of Circulation and Vaccination of Vaccines \(2016 Revision\)](#) in English

## Guidelines

National Health Commission of the PRC, [Reference Catalogue and Explanations for the Scope of Compensation for Adverse Reactions to Vaccinations \(2020\)](#) (预防接种异常反应补偿范围参考目录及说明 (2020年版) ).

## Academic Articles

Lanfang Fei, Zhou Peng, No-Fault Compensation for Adverse Events Following Immunization: A Review of Chinese Law And Practice, Medical Law Review, Volume 25, Issue 1, Winter 2017, Pages 99–114, <https://doi.org/10.1093/medlaw/fwx001>

## Other literature/resources

Beckett N & Meng R (2021). COVID-19 Vaccine Compensation Regimes in China. CMS Guide, available at: <https://cms.law/en/int/expert-guides/cms-expert-guide-to-vaccine-compensation-regimes/china>

## Fiji

Fiji is a member of the COVAX NFCS and the UNICEF NFCS.

## Hong Kong

Introduction

Hong Kong created a no fault compensation for Covid-19 vaccines on 26 February 2021, effective immediately.

This scheme was created under national legislation. The Scheme details are set out in [Legislative Council paper FCR\(2020-21\) 94](#) which was presented at the [Finance Council meeting on 26 Feb 2021](#).

It is administered by Axa China Region Insurance Company Limited (AXA Hong Kong), who are a private body.

The funding for the scheme comes from National Government funds

### Vaccines Covered

This NFCS covers vaccines used as part of the Government's Covid Vaccination Programme.,

It only includes vaccines approved for emergency use. Covered Covid-19 Vaccines are 'vaccines authorized by the Secretary for Health, under a state of public health emergency, which fulfil the criteria of safety, efficacy and quality for the purpose of vaccination programmes conducted by the Government on the advice of an advisory panel appointed by the Chief Executive in accordance with the Prevention and Control of Disease (Use of Vaccines) Regulation (Cap. 599K)'

### Injuries Covered

This NFCS covers both temporary and permanent injuries.

Under this NFCS only eligible injuries are covered. Potentially eligible injuries are those on one of two pre-specified lists:-

- List of Serious or Unexpected Adverse Events Following Immunization of COVID-19 Vaccines as of July 2021 (AEFI list)
- List of Adverse Events of Special Interest of COVID-19 Vaccine as of April 2021 (AESI list).

Inclusion on the list does not automatically qualify an application for compensation. The conditions on the list will be subject to a severity assessment to quantify the level of compensation.

### Charges for making a claim

There is no upfront charge for making a claim under this scheme, but it requires that certification of the serious adverse event is completed by a doctor. Acceptable evidence for certification includes, but is not limited, to hospital discharge summary, certification letter by attending doctor, and medical certificates. On its own a sick leave certificate is not acceptable as a certification proof

### Claimants

Under this scheme the following categories of individuals are permitted to make a claim.

- Live vaccine recipient
- The parent or legal guardian of a child or disabled adult - proof of this relationship must be included with the application form, for example a birth certificate
- The estate of a deceased vaccine recipient – the Grant of Letter of Administration on the Deceased's estate must be included with the application form

Under this scheme there are very limited circumstances in which a legal representative could make a claim on behalf of their client, see above. Funding for legal representation is not provided by the scheme.

### Losses covered

This scheme pays the following

Live vaccine recipient	Dependants of vaccine recipient	Estate of a deceased vaccine recipient
Compensation payments are for general categories and are not broken down into economic and non-economic losses.	No Compensation is provided specifically for dependants.	Compensation payments are for general categories and are not broken down into economic and non-economic losses.

A Severity Assessment is used to quantify payments. It is classified into four headings:-

1. Pain and Suffering
2. Long Term Damage
3. Disablement
4. Death

Heading	Description	Quantification
Pain and Suffering	Reversible sickness with physical and/or psychological trauma with no long term sequelae	Up to 10% of the maximum payment
Long Term Damage	Persistent damage to the body that extends beyond a certain time frame and requires prolonged medical care, BUT does not <ul style="list-style-type: none"> <li>- affect the ability to perform daily living activities or</li> <li>- cause disability</li> </ul>	Up to 50% of the maximum payment
Disablement	A medical condition that affects the ability of a person to look after oneself or impacts on his earning capacity after a defined period of time. This is assessed using activities of daily living (ADL), see below	Up to 100% of the maximum payment, see below
Death	Death	100% of the maximum payment

The amount of compensation received by live vaccine recipients will depend on the severity and duration of the injury, there are examples given in the [Fund Terms and Conditions](#). Where an applicant is suffering from a disability this will be assessed using a standardised system taken from the insurance industry which is based on the number of Activities of Daily Living (ADLs) that the applicant can perform.

Activities of Daily Living (ADL)
<b>Dressing</b> – the ability to put on and take off clothing without assistance
<b>Toileting</b> – the ability to use the toilet, including getting on and off, without assistance
<b>Mobility</b> – the ability to get in and out of bed or a chair without assistance
<b>Continence</b> – the ability to control bowel and bladder function
<b>Feeding</b> – the ability to get food from a plate into the mouth without assistance
<b>Bathing and showering</b> – the ability to bathe and shower without assistance

Applicants who fail to perform three or more of the ADLs will be classed as totally disabled and entitled to 100% of the maximum payment. Applicants who fail to perform one or two of the ADLs will be classed as partially disabled and entitled to 60% of the maximum payment.

Compensation under this scheme is capped, with a maximum payment that depends on the age of the injured individual at the date of the last dose of the vaccination. The maximum payments an individual can receive are:-

	Aged under 40	Aged 40 or above
Injured vaccine recipient	HKD \$3,000,000	HKD \$2,500,000
Deceased vaccine recipient	HKD \$2,500,000	HKD \$2,000,000

Payments consist of a lump sum payment.

Funeral expenses are not available under this NFCS.

Compensation under this scheme calculated on an individual basis using tariffs/guidelines to assist with quantification.

Loss of earnings are not paid under this scheme.

There is no minimum claim value under this NFCS.

#### Time limits for claims

The scheme does not specify a time limit between vaccination and the adverse event occurring.

A claim under the scheme must be brought within 2 years of the last vaccination.

#### Evaluating claims – standard of proof required

Claims are evaluated by the Expert Committee who provide an assessment of whether there is causal link between the adverse event and the Covid-19 vaccination. The Expert Committee is appointed by the Director for Health. The Expert Committee have endorsed the two lists of Serious Adverse Events, the AEFI and AESI lists. The standard of proof required by the scheme is unusual in that there is a negative causation requirement. A payment will be issued if the Expert Committee cannot rule out that the injury/death was not associated with the administration of a vaccine.

#### Appeals and the right to litigate

The right to litigate is not affected by use of the scheme - A claimant has a free choice to use the scheme or to litigate. However, if a person who has been paid by the scheme is awarded damages in subsequent litigation there is a claw back provision for repayment of monies paid by the scheme.

There are two potential appeal mechanisms:-

- a re-review by the expert committee if the claimant is not satisfied with the decision on causation and/or
- a review of the quantum by the administrator if the sum is not considered sufficient.

Useful information and links

The scheme produces an overview of the fund including data on claims (claim numbers, payments, claim processing timeframes, etc) [AEFI Fund overview](#)

Scheme website - [Indemnity Fund for Adverse Events Following Immunization with Coronavirus Disease-2019 Vaccines](#)

[Scheme Terms and Conditions](#)

[Legislative Council paper FCR\(2020-21\) 94](#) which was presented at the [Finance Council meeting on 26 Feb 2021](#)

## India

India is a member of the COVAX NFCS.

## Indonesia

Indonesia is triple covered; it has a national NFCS (detailed below) and a member of the COVAX NFCS and the UNICEF NFCS.

### Introduction

Indonesia is triple covered - it has a national covid vaccine NFCS, it is a member of the [COVAX NFCS](#) and the [UNICEF NFCS](#).

Indonesia introduced a national no-fault compensation for COVID-19 vaccines in 2021 through the enacting of the [Minister of Health Regulation Number 10 of 2021](#), which is the implementing regulation of [Presidential Decree Number 99 of 2020](#) and [Presidential Decree Number 14 of 2021](#).

The scheme appears to be administered by the National Commission on AEFI (Komisi Nasional Kejadian Ikutan Pasca Imunisasi/Komnas KIPI). More specifically, Komnas KIPI carries out causality assessments on potential connections between vaccination and injury, and can receive compensation claims following a finding of causation (see [Harryandi, Bratadana and Sandyawan 2021](#)).

The funding for the scheme comes from central government (see Minister of Health Regulation Number 10 of 2021, Article 36).

### Vaccines Covered

This NFCS covers COVID-19 vaccines administered in Indonesia.

It is not specified whether the scheme includes both vaccines approved for emergency use and standard approvals.

### Injuries Covered

This NFCS covers both temporary and permanent injuries.

Under this NFCS only eligible injuries are covered. Eligible injuries are injuries that necessitate medical care and treatment, injuries that cause disability, and death. For the purposes of compensation, disability can be defined as 'mild', 'moderate' or 'severe', as specified in the Minister of Health Regulation Number 10 of 2021, Article 38.

### Charges for making a claim

It is not specified whether there are any charges for making a claim under this scheme.

### Claimants

Under this scheme the following categories of individuals are permitted to make a claim:

- Vaccinated person or legal representative of a vaccinated person;
- Family members of an injured vaccinated person;
- Legal heirs of a deceased vaccinated person or legal representative of the legal heirs.

See Minister of Health Regulation Number 10 of 2021, Article 39.

Under this scheme the claimant is allowed to nominate a legal representative to make their claim.

Funding for legal representation is not specifically provided by the scheme.

### Losses covered

This scheme pays the following:

<b>Live vaccine recipient</b>	<b>Dependants of vaccine recipient</b>	<b>Estate of a deceased vaccine recipient</b>
<b>Compensation payments are for general categories</b> and are not broken down into economic and non-economic losses.	<b>No compensation</b> is specifically provided for dependants.	<b>Compensation payments are for general categories</b> and are not broken down into economic and non-economic losses.

It is not known whether payments consist of a lump sum payment, periodic payments, or a mixture of periodic payments and a lump sum payment.

According to [Harryandi, Bratadana and Sandyawan 2021](#):

The disability compensation is awarded based on the severity of the disability which is classified into mild, moderate, and severe. Furthermore, the amount of compensation in each category is not strictly regulated, rather it is determined by the evaluation committees which will be forwarded to the Minister of Finance to be approved.

(2021, 243)

The Minister of Health Regulation Number 10 of 2021 provides at Article 40 that provisions on compensation amounts should be determined by the Minister of Health subject to approval by the Minister of Finance. However, [Harryandi, Bratadana and Sandyawan 2021](#) state that specific

regulation on the amount of compensation available under the Indonesian NFCS has not been created yet: ‘...the Indonesian regulations have not yet arranged the elements of compensation comprehensively’ (248).

Medical services costs following injury are funded through the National Health Insurance mechanism with class III of health services if the vaccinated person is an active participant of the National Health Insurance Program. If the vaccinated person is not an active participant of the National Health Insurance Program, the costs are covered by the state budget (see Minister of Health Regulation Number 10 of 2021, Article 36 and Article 40).

#### Time limits for claims

The scheme does not seem to specify a time limit between vaccination and the adverse event occurring or any time limits on when a claim can be brought.

#### Evaluating claims – standard of proof required

Under this NFCS, for a claim to be admissible an etiological assessment and a causality assessment should first be conducted by the Regional Commission on AEFI and the National Commission on AEFI respectively. These assessments are based on the record and report results as well as the investigation carried out by the relevant Health Service Facility or health service offices (see Minister of Health Regulation Number 10 of 2021, Article 36 and Article 40).

The standard of proof required by the Regional and National Commissions on AEFI is not further specified in the Regulation.

Should the findings of the Commissions suggest a causal relationship between vaccination and a specific injury exists, Article 35(3) of the Regulations provide that the ‘National Food and Drug Agency shall conduct sampling and testing in accordance with the provisions of laws and regulations.’

According to [Harryandi, Bratadana and Sandyawan 2021](#), a claim for compensation can be filed with the National Commission on AEFI only if a causal relationship between COVID-19 vaccination and injury has been previously found by the Commission (243).

#### Appeals and the right to litigate

There is a restricted right to litigate – claimants can start litigation, however the Indonesian Government will take over the legal responsibility of providers of COVID-19 vaccinations, if the provider ‘has conducted the production and distribution process in accordance with the proper methods of drugs manufacture and/or the proper methods of drugs distribution’ (see Regulation Number 10 of 2021, Article 46)

There does not seem to be an appeal or review system to review the decisions of the National Commission on AEFI.

## Useful information and links

It is not known whether the scheme produces an annual report including data on claims & financial performance (claim numbers, payments, claim processing timeframes, administrative costs, etc).

### Links to legislation:

Minister of Health Regulation Number 10 of 2021 (English translation by SSEK Indonesian Legal Consultants): <https://www.iccc.or.id/wp-content/uploads/2021/03/Minister-of-Health-Regulation-No.-10-of-2021-SSEK-Translations.pdf>

Presidential Decree Number 99 of 2020: <https://peraturan.bpk.go.id/Home/Details/167788/perpres-no-50-tahun-2021>

Presidential Decree Number 14 of 2021: <https://peraturan.bpk.go.id/Home/Details/161210/perpres-no-14-tahun-2021>

## Japan

### Introduction

Japan had an existing no-fault compensation scheme for vaccines included in its national immunisation programme created in 1976 through the passing of Act No. 69 of June 19, 1976, which introduced supplementary provisions on vaccine injury no-fault compensation to the Immunization Act 1948 (Act No. 68 of June 30, 1948). The provisions regulating the NFCS are contained in Chapter V of the Immunization Act. According to media reports (see [here](#) and [here](#)), in February 2021 the Japanese health minister announced at a budget meeting that the NFCS would cover injuries resulting from COVID-19 vaccination.

The first COVID-19 cases were adjudicated by the Scheme in August 2021 (see report [here](#)).

The scheme is administered by Japanese Ministry of Health, Labour and Welfare (MHLW) and mayors of relevant municipalities (see Immunization Act, Article 15).

The funding for the NFCS is shared between municipalities, prefectures and central government (see Immunization Act, Articles 25-27).

Note that Japan also has a separate NFCS administered by the Pharmaceuticals and Medical Device Agency for 'voluntary vaccinations' that are not part of the national immunisation programme (see [Mungwira et al. 2020](#)).

### Vaccines Covered

Vaccines for a pre-specified list of diseases are covered by this NFCS. The vaccines covered by the scheme are classified as vaccines against 'Category A' diseases and vaccines against 'Category B' diseases.

'Category A' diseases specified by the Immunization Act are the following (see Art. 2(2)):

1. diphtheria;
2. pertussis;
3. polio (acute myelitis);
4. measles;
5. rubella;
6. japanese encephalitis;
7. tetanus;
8. tuberculosis;
9. Hib infection (Haemophilis influenza type B);
10. pneumococcal infectious disease (limiting to one that is of infants);
11. human papilloma virus infection; and
12. Beyond the diseases listed in the preceding items, diseases provided for by Cabinet Order as diseases against which vaccinations are deemed a required necessity to prevent an outbreak and a spread from person to person, or to prevent a outbreak or a spreading as the condition of a person infected can become serious or will likely become serious.

‘Category B’ diseases specified by the Immunization Act are the following (see Art. 2(3)):

1. influenza; and
2. Beyond the diseases listed in the preceding items, diseases provided for by Cabinet Order as diseases against which vaccinations are deemed a required necessity to prevent individuals from developing the disease or the condition from getting worse, and to contribute to preventing the disease from spreading.

Under the Act, vaccinations are furthermore classified as either ‘routine’ or ‘temporary’ vaccinations (see Immunization Act, Article 5 and Article 6).

COVID-19 vaccination has been classified as a special ‘temporary vaccination’ following a revision of the Immunization Act in December 2020 ([Yamamoto et al. 2021](#); [Tsuji 2021](#)).

#### Injuries Covered

This NFCS covers all diseases, disability, deaths caused by covered vaccinations.

There is no specified disablement threshold in the statute.

#### Charges for making a claim

It is not specified whether there is a charge for making a claim under this scheme.

#### Claimants

Under this scheme the following categories of individuals are permitted to make a claim:

- Live vaccine recipient or a caretaker in case of those under eighteen years of age who are in a state of disability due to vaccination;
- Surviving family of a person who died of a given vaccination.

It is not specified whether under this scheme the claimant is allowed to nominate a legal representative to make their claim.

#### Losses covered

This scheme pays the following:

Live vaccine recipient	Dependents of vaccine recipient	Surviving family of a deceased vaccine recipient
Compensation payments are for <b>general categories</b> and are not broken down into economic and non-economic losses.	<b>No Compensation</b> is specifically provided to the dependents of the vaccine recipient.	Compensation payments are for <b>general categories</b> and are not broken down into economic and non-economic losses.

The following items are compensated under Article 16(1) of the Immunization Act (which refers to injuries caused by routine vaccination against ‘category A’ diseases or a temporary vaccination against ‘category B’ diseases):

1. **medical expenses and medical benefits:** A person who undergoes a medical treatment of a disease due to a given vaccination;
2. **child disability assistance pension:** A person who takes care of those under eighteen years of age who are in a state of disability due to given vaccination, as specified by Cabinet Order;
3. **disability pension:** A person who is eighteen years of age or more, who is in a state of disability as determined by Cabinet Order as a result of being vaccinated;
4. **lump sum payment:** A surviving family of a person who died of a given vaccination, specified by Cabinet Order; and
5. **funeral rite expenses:** A person who performs funeral rites for a person who died due to a given vaccination.

Article 16(2) (for injuries caused by a routine vaccination against category B diseases) covers the same items, except at point (iv) it covers a ‘pension for a surviving family or lump sum payment for a surviving family’.

Payments consist of a mixture of periodic payments and/or a lump sum payment.

Funeral rite expenses are covered under this Scheme.

Compensation under this scheme calculated on an individual basis using tariffs/guidelines to assist with quantification. The lump sum compensation for a surviving family in case of death following vaccination is currently ¥44.2 million, while funeral rite expenses are covered up to ¥209,000. Compensation is not capped, but the maximum quantum that can be awarded depends

on the consequences of the injury in an individual case and the amounts provided under the scheme for each compensated category (see [Ro et al. 2021, Table 5](#)).

#### Time limits for claims

The scheme does not set a time limit between vaccination and the adverse event occurring.

It is not known whether there are other time limits for claims under this scheme.

#### Evaluating claims – standard of proof required

According to the [National Research Council \(US\) Division of Health Promotion and Disease Prevention \(1985\)](#) ‘judgments are based on available clinical information, interval between vaccination and onset of illness, and report in literature of similar adverse reactions.’

#### Appeals and the right to litigate

It should remain possible to pursue litigation in court (see [National Research Council \(US\) Division of Health Promotion and Disease Prevention, 1985](#)), but indemnification may be negotiated by vaccine manufacturers in procurement agreements (see [Yamamoto et al. 2021](#)).

Litigation may affect the award paid by NFCS. See Immunization Act, Article 18.

No information is available on appeals to NFCS decisions.

#### Useful information and links

It is not known whether the scheme produces an annual report including data on claims & financial performance (claim numbers, payments, claim processing timeframes, administrative costs, etc).

#### **Links to legislation:**

Immunization Act (Act No. 68 of June 30, 1948) [in English]:

[https://www.japaneselawtranslation.go.jp/en/laws/view/2964/en#je\\_ch5at2](https://www.japaneselawtranslation.go.jp/en/laws/view/2964/en#je_ch5at2)

Immunization Act (Act No. 68 of June 30, 1948) [in Japanese, includes the 2020 supplementary provisions on COVID-19]:

[https://www.mhlw.go.jp/web/t\\_doc?dataId=79015000&dataType=0&pageNo=1](https://www.mhlw.go.jp/web/t_doc?dataId=79015000&dataType=0&pageNo=1)

#### **Academic literature:**

Tsuji, Y. (2021). COVID-19 Vaccination in Japan: Remedies for Injured Patients. 16 Health L. & Pol'y Brief 40. Available at:

<https://heinonline.org/HOL/LandingPage?handle=hein.journals/heallaw16&div=8&id=&page=>

Yamamoto, N., Takahashi, Y., & Hayashi, S. (2021). Legal and regulatory processes for Japan's COVID-19 immunization program. *Vaccine*, 39(43), 6449–6450.  
<https://doi.org/10.1016/j.vaccine.2021.09.002>.

Mungwira, R. G., Guillard, C., Saldaña, A., Okabe, N., Petousis-Harris, H., Agbenu, E., Rodewald, L., & Zuber, P. L. F. (2020). Global landscape analysis of no-fault compensation programmes for vaccine injuries: A review and survey of implementing countries. *PLoS one*, 15(5), e0233334.  
<https://doi.org/10.1371/journal.pone.0233334>.

Ro D., Ro D., & Kim SY. COVID-19 vaccine injury compensation programs. *J Glob Health Sci*. 2021 Dec;3(2):e21. <https://doi.org/10.35500/jghs.2021.3.e21>.

National Research Council (US) Division of Health Promotion and Disease Prevention. Vaccine Supply and Innovation. (1985) Washington (DC): National Academies Press (US). Appendix E, Vaccine-Injury Compensation in Other Countries. Available at:  
[https://www.ncbi.nlm.nih.gov/books/NBK216811/?report=reader#\\_NBK216811\\_pubdet](https://www.ncbi.nlm.nih.gov/books/NBK216811/?report=reader#_NBK216811_pubdet)

#### **Media reports:**

<https://japantoday.com/category/features/health/If-you-die-from-the-COVID-19-vaccine-in-Japan-the-government-will-give-your-family-over-%C2%A544-mil>

<https://www.lbc.co.uk/news/japan-pay-families-295000-pounds-44-million-yen-relative-dies-covid-vaccine/>

<https://www.independent.co.uk/news/world/asia/japan-covid-vaccine-pay-families-death-b1806799.html>

<https://mainichi.jp/english/articles/20210820/p2a/00m/0na/024000c>

#### **Kiribati**

Kiribati is a member of the COVAX NFCS and the UNICEF NFCS.

#### **Kyrgyz Republic**

Kyrgyz Republic is a member of the COVAX NFCS.

#### **Laos, Democratic Republic.**

The Democratic Republic of Lao is a member of the COVAX NFCS and the UNICEF NFCS.

#### **Maldives Islands**

The Maldives is a member of the COVAX NFCS.

## Malaysia

Malaysia has a national NFCS (see below) and is a member of the UNICEF NFCS.

### Introduction

Malaysia is double covered. Malaysia created a national no fault compensation for Covid-19 vaccines on 21 March 2022, effective immediately. Malaysia is also a member of the UNICEF NFCS.

This scheme is a non-statutory scheme.

It is administered by the Malaysian Ministry of Health and the National Disaster Management Agency, who are a government department and a public body respectively.

The funding for the scheme comes from central government.

### Vaccines Covered

This NFCS covers vaccines received under the National COVID-19 Immunization Program (PICK). PICK includes vaccines approved for emergency use and standard approvals. Malaysia has purchased some vaccines through the COVAX facility, which have been administered as part of PICK. Individuals who been vaccinated under PICK with a vaccine purchased from COVAX appear to be covered by both the national NFCS and the [UNICEF NFCS](#). The [UNICEF Protocol](#) states:

*11(d): 'the Claimant fully and finally waives the right to seek and/or obtain compensation in respect of the Injury in question from or through any other compensation or insurance programme or through any other means.'*

This prevents double recovery from the UNICEF and National NFCS.

### Injuries Covered

This NFCS covers both temporary and permanent injuries. Financial assistance is only available for serious side effects. The Special Pharmacovigilance Committee for the COVID-19 evaluate whether an Vaccine Adverse Events Following Immunisation (AEFI) should be categorized as 'serious' in an evaluation report.

### Charges for making a claim

There is no upfront charge for making a claim under this scheme, but a claim must be lodged by a doctor.

### Claimants

The [Scheme Rules](#) state that financial assistance is only available to Malaysian citizens who have been vaccinated under the PICK program. Contemporaneous [press reports](#) indicate that permanent residents and long-term pass-holders vaccinated under the PICK program are also eligible, but it is unclear if this is the case or not.

The [Scheme Rules](#) do not specify which categories of individuals are permitted to make a claim. The application form clearly allows a claim to be submitted by someone other than the patient.

It is unclear whether the claimant is allowed to nominate a legal representative to make their claim. There is nothing in the scheme rules to indicate that funding for legal representation is provided by the scheme.

#### Losses covered

Under this scheme **payments are for general categories** and are not broken down into economic and non-economic losses.

Payments consist of a lump sum payment.

Funeral expenses are not available under this NFCS.

Loss of earnings are not paid/paid under this scheme.

Payments under this scheme are calculated on an individual basis. The amount paid is determined based on certification by the Medical Technical Committee and decided by the Master Committee for Special Financial Assistance on the Harmful Effects of the COVID-19 Vaccine. Payments under this scheme are capped. The amount of Special Financial Assistance for the Harmful Effects of the COVID-19 Vaccine that has been set is as follows:

- (i) not exceeding RM50,000 if there is a serious adverse effect on the recipient of the COVID-19 vaccine that requires prolonged treatment in hospital; and
- (ii) not exceeding RM500,000 in the event of permanent disability or death due to the COVID-19 vaccine

There is no minimum claim value under this NFCS.

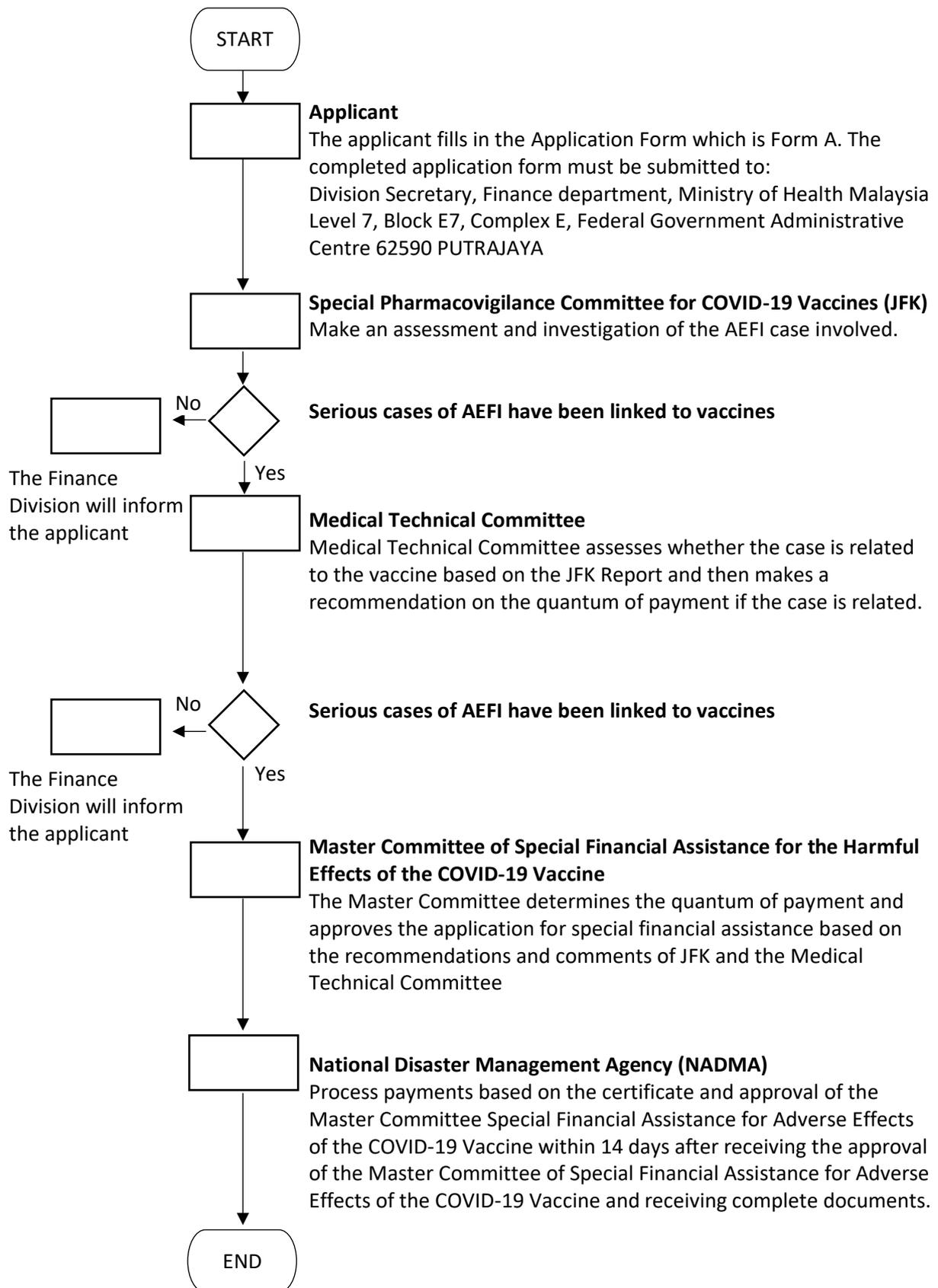
#### Time limits for claims

An injury will only be eligible under the NFCS if it occurs within three months of the vaccination.

A claim under the scheme must be brought within one year from the start of the adverse event.

#### Evaluating claims – standard of proof required

The following schematic sets out the process for evaluating claims. It is not clear from the scheme rules what thresholds are used. The Special Pharmacovigilance Committee (JFK) investigate the adverse event, the Medical Technical Committee then determine if a case is related to the vaccine based on the JFK report and make a recommendation for quantum. The Master Committee then determine the quantum and approve the payment. It is not clear what standards any of these committees use.



### Appeals and the right to litigate

The right to litigate is not affected by use of the scheme - A claimant has a free choice to use the scheme or to litigate. The Scheme rules are clear that payment from the scheme are ex gratia and are made without any admission of liability on behalf of the Government; scheme payments are consistently described as financial assistance rather than compensation.

No information is available on an appeal process. In 1.3 of the Scheme rules it states that the decision of the Master Committee of Special Financial Assistance for the Harmful Effects of the COVID-19 Vaccine related to both eligibility and to payment value is final.

### Useful information and links

The scheme does not appear to publish any data on claims.

[Ministry of Health Website - link to the Scheme Rules](#) (in Malay).

[Scheme Rules](#) (in Malay)

[COVAX NFCS](#)

### Marshall Islands

The Marshall Islands is a member of the COVAX NFCS.

### Mongolia

Mongolia is a member of the COVAX NFCS.

### Myanmar

Myanmar is a member of the COVAX NFCS and the UNICEF NFCS.

### Nauru

Nauru is a member of the UNICEF NFCS.

### Nepal

We understand that Nepal has a national NFCS (see below) and is a member of the COVAX NFCS.

### National NFCS

It seems that Nepal has vaccine injuries NFCS which pre-dates the pandemic. We believe the Vaccination Act 2016 No. 2072 of 26 January 2016, sets out the framework for this. There is very

little information available in English about this scheme and we are awaiting a translation of the law. We will update our website and this report when we have this additional information.

## New Zealand

### Introduction

New Zealand had an existing no-fault compensation scheme for vaccines created in April 1974, and which incorporated covid-19 vaccines from 18 February 2021.

This scheme was created under national legislation and has been amended by a number of different Acts since the 1970s.

It is administered by the [Accident Compensation Commission \(ACC\)](#), who are a Crown entity. Crown Entities are part of the state sector in New Zealand and are established under the [Crown Entities Act 2004](#). Crown entities are public sector organisations where the governance of the organisation is split from the management of the organisation.

The funding for ACC is split into five funds, and it comes from a mixture of Levy funding and central Government funding. The fund which pays for vaccine compensation comes from central Government funds.

### Vaccines Covered

This NFCS does not specify which vaccines are covered. An injury caused by a vaccine is covered by ACC if it is a 'treatment injury' as set out in [Section 32 of the Accident Compensation Act 2001](#). In this context a treatment injury would be a personal injury caused by a vaccination received from a registered health professional which is not a necessary part, or ordinary consequence, of the vaccination, taking into account all the circumstances of the treatment, including the person's underlying health condition at the time of the treatment; and the clinical knowledge at the time of the treatment.

Treatment injury does not include the following kinds of personal injury:

- (a) personal injury that is wholly or substantially caused by a person's underlying health condition:
- (b) personal injury that is solely attributable to a resource allocation decision:
- (c) personal injury that is a result of a person unreasonably withholding or delaying their consent to undergo treatment.

Treatment injury includes injuries that occur as part of an approved clinical trial. Vaccines approved for emergency use and standard approvals and those used as part of an approved clinical trial would be covered by this NFCS.

### Injuries Covered

This NFCS covers both temporary and permanent treatment injuries.

Under this NFCS any injury which qualifies as a 'treatment injury' is covered.

### Charges for making a claim

There is no upfront charge for making a claim under this scheme. A claim must be lodged by a doctor, who must certify that this is a treatment injury. In New Zealand public healthcare is free or low cost for citizens, residents and individuals who hold a work visa valid for two years or more.

### Claimants

Under this scheme the following categories of individuals are permitted to make a claim.

- Live vaccine recipient/their authorised representative
- Beneficiaries of a vaccine recipient/their authorised representative
- The estate/representative of a deceased vaccine recipient

Under this scheme the claimant is allowed to nominate a representative to make their claim. This can be a legal representative, but funding for legal representation is not provided by the scheme.

Under this scheme the claimant is allowed to nominate a legal representative to make their claim. Funding for legal representation is/is not provided by the scheme.

### Losses covered

This scheme pays the following

<b>Live vaccine recipient</b>	<b>Dependants of vaccine recipient</b>	<b>Estate of a deceased vaccine recipient/person who has paid for the deceased's funeral</b>
Both <b>eligible economic and eligible non-economic losses</b> are compensated	Both <b>eligible economic and eligible non-economic losses</b> are compensated	<b>Compensation payments are for general categories</b> and are not broken down into economic and non-economic losses.

The following categories of benefits and reimbursements are available.

#### **Live Vaccine recipient: -**

The following payments are potentially available to live vaccine recipients:-

- **Loss of income** – the rates of compensation are set in the Accident Compensation Act 2001 and are updated every July taking into account to the Labour Cost Index. As at Feb 2023
  - o This is generally 80% of the pre-vaccination income, subject to caps.
  - o The maximum weekly compensation is \$2,163.70
  - o The minimum weekly compensation is \$678.40 (80% of the adult minimum wage)
- **Support with returning to work** – this is wide ranging this can involve
  - o contributions towards transportation costs,

- provision of adapted equipment and technology,
- top up income if an individual returns to work on reduced hours
- **Financial support for permanent injuries** – A claimant is assessed for the severity of the injury and the level of impairment to determine the level of payment. Payment can be:-
  - One-off payments
  - Ongoing payments - these will continue unless a reassessment indicates the level of impairment is below

#### **Deceased Vaccine recipient:-**

Three forms of payment are potentially available to the partner, child or dependant of a deceased vaccine recipient.

- **Payments for loss of income** – This will be up to 80% of the deceased’s earnings. This payment will be divided between partner, children and other dependants. Payment will be paid for the following lengths of time
  - Partner – payments will be made either for 5 years or until the youngest child in the partner’s care turns 18.
  - Children – payments will stop at the end of the year the child turns 18 or if they are in full-time study then payments will cease when they complete their studies or turn 21.
  - Other dependants – payments will be made until the dependant earns more than the minimum wage for full time work.
- **Payments to help with childcare** – These are weekly payments.
  - The value of this payment varies according to how many children under 14 there are
  - Payments are made for five years or until the child reaches the age of 14.
  - There is provision for payments to continue for longer for disabled children.
- **A one-off survivor’s grant** – This is a lump sum payment. If the child or dependant is under 16, this money will go to their parent or caregiver. These amounts may change depending on the date of death, payments currently consists of:-
  - \$7,531.49 to the spouse or partner
  - \$3,765.76 to each child under 18 or other dependants.

Partner, Children and Other Dependants are defined as follows:-

- **Partner** – The deceased’s husband or wife; or someone they were living with in the nature of marriage. A partner may still get support if they were living apart because of work, health or imprisonment.
- **Children** – The deceased’s natural or adopted children, born up to a year after they’ve died. Any children the deceased lived with and cared for. Eg a child from a previous relationship or a foster child.
- **Other dependants** – A disabled person who received financial support from the deceased.

## **Estate of a deceased vaccine recipient/person who has paid for the funeral of the deceased**

**Funeral Grants** – If a vaccine recipient has died ACC will make a funeral grant payment towards the funeral/memorial costs. Funeral Grants amounts are updated annually, in February 2023 they are up to \$7,024.80. This can be paid:-

- to the deceased's estate,
- directly to the funeral director, or
- to an individual who has already paid the funeral/memorial costs.

Payments consist of a mixture of periodic payments and a lump sum payment.

Funeral expenses are available under this NFCS.

Compensation under this scheme calculated on an individual basis using statutory guidelines to assist with quantification.

Loss of earnings are paid under this scheme. They are individualised at 80% of the pre-injury earnings but with a top cap of \$2,163.70 per week and a minimum weekly compensation is \$678.40 (80% of the adult minimum wage). These figures are index linked and updated each July.

There is no minimum claim value under this NFCS.

### Time limits for claims

For live vaccine recipients a claim under the scheme must be brought within 12 months of the point of injury. For claims involving a death there is no time limit.

### Evaluating claims – standard of proof required

If the vaccine recipient is alive then they go to a healthcare practitioner who will submit a claim to ACC on their behalf certifying that it is a treatment injury.

If a claim is made following the death of a vaccinated individual the application form must be signed by:-

- Spouse or partner
- Next of kin
- Executor of the will.

The applicant can choose to nominate someone else to deal with the claim on their behalf.

ACC will then examine the claim to see if it meets the definition of a treatment injury set out in Section 31 of the ACA 2001. This is judged on the balance of probabilities.

### Appeals and the right to litigate

This scheme is a removes the right to litigate.

ACC have an internal review process where they encourage dissatisfied claimants to contact them to try to resolve the issues.

There is an external review process. A claimant who is unhappy with the decision ACC made regarding their claim can ask to have it reviewed by an independent reviewer. The request for a review must be made within three months of the decision date. ACC can pay some of the costs associated with a review, including paying someone to represent the claimant, but these costs are capped as per [Section 148 of the ACA 2001](#).

If a claimant feels they have been dealt with unfairly they can also apply to the [Office of the Ombudsman](#).

Useful information and links

ACC publish data on claims (claim numbers, payments, claim processing timeframes, etc) on [the data.govt.nz](https://data.govt.nz) website.

[ACC website](#).

[Section 32 of the Accident Compensation Act 2001](#)

[Section 148 of the ACA 2001](#).

## North Korea

The People's Democratic Republic of Korea is a member of the COVAX NFCS.

## Pakistan

Pakistan is a member of the COVAX NFCS.

## Papua New Guinea

Papua New Guinea is a member of the COVAX NFCS.

## Philippines

The Philippines is triple covered; it has a national NFCS (detailed below) and a member of the COVAX NFCS and the UNICEF NFCS.

### Introduction

The Philippines created a no fault compensation for covid-19 vaccines on 3 March 2021, effective immediately.

This scheme was created under national legislation, [Republic act No. 11525](#), An Act Establishing the Coronavirus Disease 2019 (COVID-19) Vaccination Program expediting the vaccine procurement and administration process, providing funds therefore, and for other purposes. The scheme rules are contained in [Public Health Circular 2021/0007](#).

It is administered by the Philippine Health Insurance Corporation ([PhilHealth](#)) who are the state insurer.

The funding for the scheme comes from central Government funds.

#### Vaccines Covered

This NFCS covers Vaccines administered by the Government under the national inoculation programme. If a person reacts to a COVAX vaccine they are expected to claim against the COVAX NFCS not the national one.

It only includes vaccines approved for emergency use.

The scheme started on 3 March 2021 and will end on 2 March 2026 or when the National COVID vaccination programme ends, whichever is sooner.

#### Injuries Covered

This NFCS covers both temporary and permanent injuries.

Under this NFCS only eligible injuries are covered. These are defined at B of the [Public Health Circular 2021/0007](#) as:

1. Only serious cases identified by PhilHealth (Annex B: List of Conditions that may be claimed from COVID-19 Vaccine Injury Package) and assessed to be 'vaccine product-related reaction' or 'vaccine quality-defect reaction' due to COVID-19 vaccines by causality assessment shall be claimable. The cases eligible for compensation shall include the following:
  - a. Hospitalisation due to Anaphylaxis, Guillain-Barre Syndrome (GBS), blood clots leading to Stroke and other diseases, and other such cases that may be determined by PhilHealth based on prevailing evidence;
  - b. Permanent disability resulting from the loss of sight for both eyes; loss of any two limbs at or above the ankle or wrists; or permanent complete paralysis of any two limbs; brain injury resulting in incurable imbecility or insanity; and other such cases that may be determined by PhilHealth based on prevailing evidence;
  - c. Death

Injuries can be added to Annex B and taken away.

#### Charges for making a claim

There is no charge for making a claim under this scheme.

#### Claimants

Under this scheme the following categories of individuals are permitted to make a claim.

- Principal - The vaccinated person is the 'principal' and they take precedence over all other claimants.
- Primary beneficiaries - If the principal is unable to make a claim the primary beneficiaries (legal spouse, legitimate, legitimated or acknowledged illegitimate children) may claim.
- Secondary beneficiaries - If there are no primary beneficiaries then secondary beneficiaries, such as legitimate parents, may claim.

There is no provision for legal representatives or other nominated individuals being able to claim.

#### Losses covered

This scheme pays the following

Live vaccine recipient	Dependants of vaccine recipient	Beneficiary of a deceased vaccine recipient
<p><b>Hospital expenses only compensates eligible economic losses</b></p> <p><b>Permanent disability payments are for general categories</b> and are not broken down into economic and non-economic losses.</p>	<p><b>No Compensation</b> is provided specifically for dependants</p>	<p><b>Hospital expenses only compensates eligible economic losses</b></p> <p><b>Death payments are for general categories</b> and are not broken down into economic and non-economic losses.</p>

#### Live Vaccine recipients

- **Hospital Expenses** - Hospitalisation costs only cover economic losses that are not met by PhilHealth or other private healthcare insurance - it is a top up payment scheme not a full costs scheme. Claims can be made for the cost of eligible admissions, which are generally for more than 24 hours, and must involve being admitted to hospital not just being seen in A&E. If there is a need for further treatment after a payment has been made by the scheme claimants may make multiple claims for hospitalisation up to the top cap limit of 100,000 Philippines Peso.
- **Permanent disability** - If a vaccine recipient is permanently disabled after hospitalisation they can claim both the hospitalisation payment and the one-off lump sum permanent disability payment of 100,000 Philippines Peso. The lump sum payment for permanent disability is not broken down into economic and non-economic loss.

#### Deceased Vaccine recipients

- **Death** - If a vaccine recipient dies after hospitalisation both the hospitalisation payment and the one-off lump sum death payment of 100,000 Philippines Peso can be claimed. The lump sum payment for death is not broken down into economic and non-economic loss.

Payments consist of a lump sum payment.

Funeral expenses are not available under this NFCS.

Compensation for medical expenses under this scheme is fully individualised.

Compensation for death or permanent disability under this scheme is a fixed sum amount of 100,000 Philippines Peso

Loss of earnings are not paid under this scheme.

Compensation under this scheme is not capped.

Compensation under this scheme is capped, with a top value of

- 100,000 Philippine Peso for inpatient treatment;
- 100,000 one-off lump sum payment for permanent disability/death.

#### Time limits for claims

The scheme does not set a time limit between vaccination and the adverse event occurring.

A claim under the scheme must be brought either before the scheme ends on 2 March 2026 or when the National COVID vaccination programme ends, whichever is sooner.

#### Evaluating claims – standard of proof required

Claimants are required to submit a Vaccine Injury Assessment Survey completed by the treating physician with their claim form. This is used as the primary document that PhilHealth will use when determining the injury, the extent of disability, the nature of the Serious Adverse Event, whether the injury is eligible for compensation and if so the quantum.

A causality assessment carried out by a PhilHealth recognized expert or pool of experts will be used to determine if there is a causal link between the vaccine and the injury. The standard of proof required by the scheme is that there is a preponderant probability that the vaccination caused the adverse event. Injuries listed in Annex B of [circular 2021-0007](#) have a rebuttable presumption that they were caused by the vaccination. New injuries can be added to Annex B and injuries can be removed. Injuries will be added 'if it has been determined that the available literature, research, global data, and other resources collectively establish a preponderance of evidence in support of or against the notion that there is a causal link between the specific COVID vaccine in questions and the Serious Adverse Event(s) observed.'

#### Appeals and the right to litigate

Use of the scheme and litigation are mutually exclusive. [Circular 2021-0007](#) states at para H2 'The beneficiary, in receiving any payments through the COVID-19 Vaccine Injury Compensation Package, shall forfeit any right to file suit against public officials and employees, contractors, manufacturers, volunteers, and representatives of duly authorized private entities involved in the administration of the COVID-19 vaccine.'

There is an internal review process, the first option is for the claimant to ask for a motion of reconsideration. If they are still not satisfied they can appeal the decision using the PhilHealth appeals process.

#### Useful information and links

It is not clear whether the scheme produces data on claims & financial performance (claim numbers, payments, claim processing timeframes, administrative costs, etc). PhilHealth publish annual statistics, there doesn't seem to be a mention of the NFCS in the 2022 statistics. PhilHealth also publishes an annual report, but the most recent Annual Report is from 2020.

#### **Administrator**

[Philippine Health Insurance Corporation \(philhealth.gov.ph\)](http://philhealth.gov.ph)

#### **Legislation**

[Republic act No. 11525](#)

#### **Scheme rules**

[Public Health Circular 2021/0007](#)

#### Samoa

Samoa is a member of the COVAX NFCS and the UNICEF NFCS.

#### Solomon Islands

The Solomon islands is a member of the COVAX NFCS and the UNICEF NFCS.

#### Singapore

##### Introduction

Singapore created a no fault compensation for covid-19 vaccines announced on 28 January 2021, but it is unclear when it started to make payments.

This scheme is a non-statutory scheme.

It is administered by the Ministry of Health, who are a government department.

The funding for the scheme comes from central government.

##### Vaccines Covered

This NFCS covers vaccines administered under the national vaccination programme. It includes vaccines approved for emergency use and standard approvals.

Privately administered vaccines are not covered.

### Injuries Covered

This NFCS covers both temporary and permanent injuries.

Under this NFCS only eligible injuries are covered. Eligible injuries are those which cause a 'serious side effect. This is defined as 'A serious side effect is one that required inpatient hospitalisation, or caused permanent severe disability or was fatal.'

### Charges for making a claim

There is no charge for making a claim under this scheme. A doctor's assessment of causality between the vaccination and the adverse event is required, but it is clear on the application form that the doctor is not permitted to charge for completing this form.

### Claimants

To be eligible under the scheme the vaccine recipient must be or have been a Singapore Citizen, a Permanent Resident or a long-term pass holders who have received their vaccine under the national vaccination program.

Under this scheme the following categories of individuals are permitted to make a claim.

- Live vaccine recipient/their authorised representative
- The estate/representative of a deceased vaccine recipient

The Scheme websites specifies that for persons under the age of 21 the application must be submitted by a parent or legal guardian. For persons under a disability or deceased the application may be submitted by a next-of-kin, donee, deputy, or administrator on the vaccinated person's behalf. It appears that there are some circumstances in which a legal representative may be permitted to make a claim under this NFCS There is nothing in the scheme rules to indicate that funding for legal representation is provided by the scheme.

### Losses covered

This scheme pays the following

<b>Live vaccine recipient</b>	<b>Dependants of vaccine recipient</b>	<b>Estate of a deceased vaccine recipient</b>
<b>Compensation payments are for general categories</b> and are not broken down into economic and non-economic losses.	<b>No Compensation</b> is provided specifically for dependants.	<b>Compensation payments are for general categories</b> and are not broken down into economic and non-economic losses.

Payments consist of a lump sum payment.

Payments are fixed sum dependent upon the severity of the side effect, as set out below.

<b>Side Effect</b>	<b>Lump sum payment value</b>
Death or severe disability	\$225,000
inpatient care with high dependence or intensive care with subsequent recovery	\$10,000
inpatient treatment with hospitalisation, with subsequent recovery (excluding visits to A&E that do not require subsequent inpatient admission)	\$2,000

Payments will be made at the highest quantum available and are not cumulative, eg there will be one pay out of \$225,000 for death or serious injury regardless of hospital stay or treatment.

The Scheme website is clear that these payments are ex gratia and are not meant to reimburse medical costs, which can be met either from private insurance or from public healthcare financing schemes such as MediShield Life and other subsidies at public healthcare institutions.

Funeral expenses are/are not available under this NFCS.

Loss of earnings are not paid under this scheme.

Compensation under this scheme is a fixed sum amount depending on the severity of the adverse reaction. Compensation under this scheme is capped, with a top value of \$225,000 for death or serious disability.

There is a minimum payment under this NFCS of \$2,000 for eligible applicants.

#### Time limits for claims

The scheme does not set a time limit between vaccination and the adverse event occurring.

A claim under the scheme must be brought within three years from the date of occurrence of the adverse event.

#### Evaluating claims – standard of proof required

Assessment of claims is carried out by an independent panel appointed by the Ministry of Health. Decisions by the panel are on causation and the severity of the injury. The threshold used to determine causation is not clear.

#### Appeals and the right to litigate

The right to litigate is not affected by use of the scheme. The Scheme website is clear that payments from the NFCS are ex gratia financial assistance and are made without any admission of liability.

No information is available on an internal appeal process if an applicant is dissatisfied with the NFCS decision. If the claimant's medical condition has changed a request for reassessment can be made.

Useful information and links

The scheme provides data on claims (claim numbers, payments, claim processing timeframes, etc) in response to parliamentary and other questions, which have been reported in the press, see News Reports below.

[MOH | Vaccine Injury Financial Assistance Programme for COVID-19 Vaccination.](#)

### News reports

Abdullah, Zhjaki '413 people get Covid-19 vaccine injury payouts, over \$1.8m paid or offered to applicants:MOH' *The Strait Times* 27 January 2023 available at <https://www.straitstimes.com/singapore/health/413-people-qualify-for-covid-19-vaccine-injury-payouts-as-at-end-2022> (accessed 1 March 2023)

Hong Yi, Tay '296 patients qualified for Covid-19 vaccine injury payouts as at Dec 31:MOH' *The Strait Times* 7 January 2023 available at <https://www.straitstimes.com/singapore/health/296-patients-qualified-for-vaccine-injury-payouts-as-of-dec-31-moh> (accessed 1 March 2023)

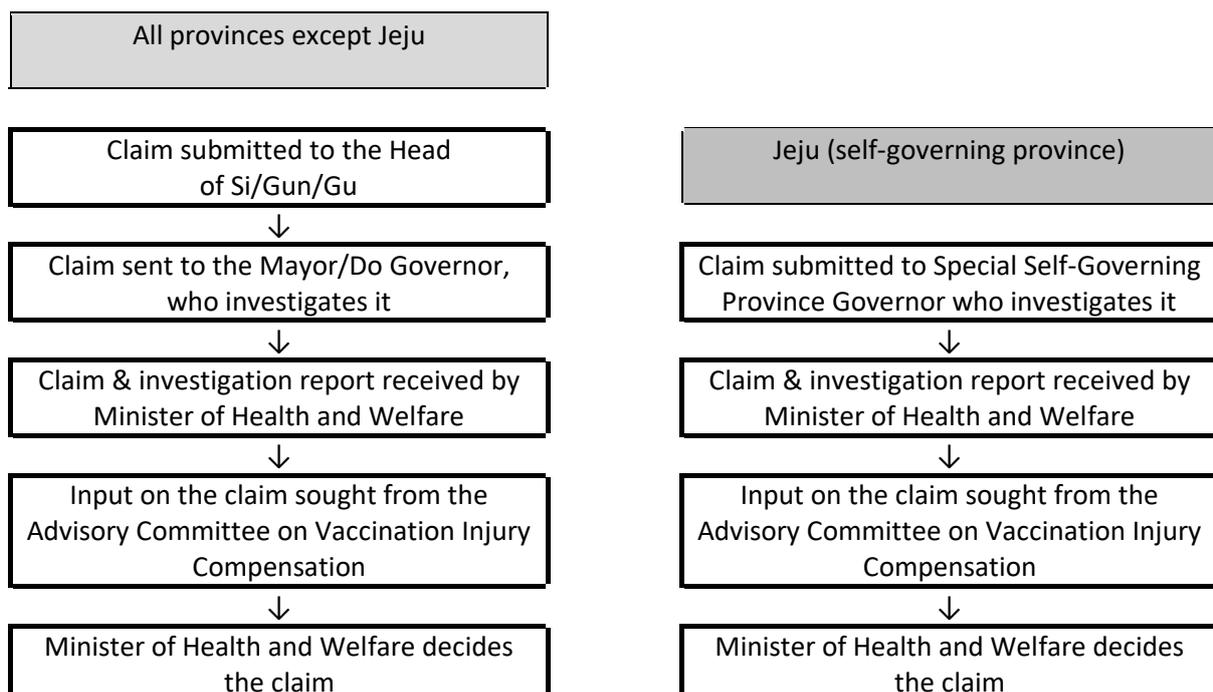
## South Korea

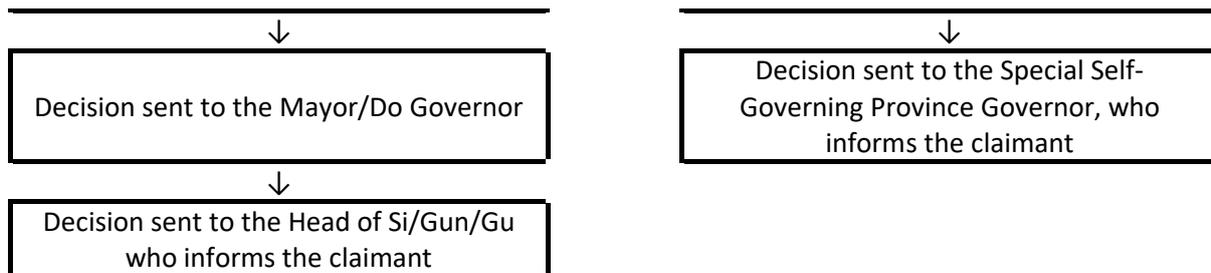
### Introduction

South Korea had an existing no-fault compensation scheme for vaccines created 29 December 2009, and which incorporated covid-19 vaccines from 10 February 2021.

This scheme was created under national legislation. It is governed by [Article 71 of the Infectious Disease Control and Prevention Act \(Act No. 17067, March 4 2020\)](#) and the [Enforcement Decree of the Infections Disease Control and Prevention Act \(Presidential Decree No. 28070, May 29 2017\)](#).

It is administered by a combination of local and national government officials as set out in Article 31 of the Enforcement Decree. The pathways for claims are set out briefly below:-





Responsibility for the scheme and the compensation decisions rests with the Minister of Health and Welfare. Under Article 32 of the Decree these functions are delegated to the Director of the Korea Disease Control and Prevention Agency ([KDCA](#)). KDCA is a public body under the Ministry of Health and Welfare. Press reports, for example see [here](#) and [here](#) indicate that on 19 July 2021 KDCA announced a change of administrator from themselves to a newly created Compensation & Support Center for Covid-19 Vaccine Injury. We have not been able to find any further information on the Compensation & Support Center for Covid-19 Vaccine Injury.

The funding for the scheme comes from central government.

#### Vaccines Covered

This NFCS covers vaccines purchased by the Government and administered at public Health Centres. Both mandatory vaccines (Art 24 of the Act) and special (voluntary) vaccines (Art 25 of the Act) are covered. This NFCS covers nationally approved vaccines, approved for emergency use and standard approvals.

#### Injuries Covered

This NFCS covers both temporary and permanent injuries.

Under this NFCS any injury is potentially covered.

Under this NFCS only eligible injuries are covered. Eligible individuals are those who have contracted a disease, become disabled or died due to vaccination (Article 71 of the Act).

#### Charges for making a claim

There is no charge for making a claim under this scheme.

#### Claimants

Under this scheme the following categories of individuals are permitted to make a claim.

- Live vaccine recipient/their authorised representative
- The estate/representative of a deceased vaccine recipient

This scheme does not specify whether the claimant is allowed to nominate a legal representative to make their claim. It is not clear if funding for legal representation is provided by the scheme.

## Losses covered

This scheme pays the following

<b>Live vaccine recipient</b>	<b>Dependants of vaccine recipient</b>	<b>Estate of a deceased vaccine recipient</b>
Only <b>eligible economic losses</b> are compensated	<b>No Compensation</b> is provided specifically for dependants	Only <b>eligible economic losses</b> are compensated

Article 29 of the Decree sets out the compensation available. The following categories of benefits and reimbursements are available.

### Living vaccine recipients

- **Medical expenses** – the balance of medical expenses for treating the vaccine injury, less any amount due to an insurer or medical care fund.
- **Nursing expenses** – flat rate of KRW 50,000 per day – only paid for inpatient treatment
- **Disability compensation** – a fixed percentage of the monthly minimum wage x 240 months

If a payment is made for disability compensation then no further medical expenses are paid.

The monthly minimum wage is set at the minimum wage when the injury occurred as defined in the [Minimum Wage Act](#). It is [updated regularly](#), in February 2023 the monthly minimum wage was KRW 2,010,580.

<b>Disability</b>	<b>Lump Sum compensation</b>
Grade 1	100 % of the monthly minimum wage x 240 months
Grade 2	85 % of the monthly minimum wage x 240 months
Grade 3	70 % of the monthly minimum wage x 240 months
Grade 4	55 % of the monthly minimum wage x 240 months
Grade 5	40 % of the monthly minimum wage x 240 months
Grade 6	25 % of the monthly minimum wage x 240 months

### Deceased Vaccine recipients

- **Death Benefits** – monthly minimum wage x 240 months
- **Funeral expenses** – KRW 300,000

Payments consist of a lump sum payment.

Funeral expenses of KRW 300,000 are available under this NFCS.

Compensation for medical expenses under this scheme is fully individualised.

Death benefits and Disability Compensation under this scheme are calculated on an individual basis using tariffs to assist with quantification. These payments are a form of loss of earnings.

Compensation for nursing expenses and funeral expenses under this scheme are a fixed sum amount of and KRW 50,000 per day and KRW 300,000 respectively.

Compensation under this scheme is not capped.

#### Time limits for claims

The scheme does not set a time limit between vaccination and the adverse event occurring.

A claim under the scheme must be brought within five years from the date of the injury, the diagnosis or the death as applicable.

#### Evaluating claims – standard of proof required

Under Article 9 of the Infectious Disease Control and Prevention Act the Infectious Diseases Committee 'the Committee' will be established by the Ministry of Health and Welfare, with the Minister appointing the Committee members. The Committee shall comprise no more than 30 members, including a Chair and Vice-Chair. Article 10 of the Act specifies that the Chair will be the Director of KDCA. The Chair appoints the Vice-Chair. Committee members will be chosen from the following categories:-

1. Public officials in charge of duties of preventing and controlling infectious diseases;
2. Medical personnel specializing in infectious diseases or infectious disease control;
3. Persons with expertise related to infectious diseases;
4. Persons recommended by a consultative council of Mayors/Do Governors prescribed in [Article 165 of the Local Autonomy Act](#);
5. Persons recommended by a non-profit, non-governmental organization defined in [Article 2 of the Assistance for Non-Profit, Non-Governmental Organizations Act](#);
6. Persons with considerable knowledge and experience in infectious diseases.

Holders of public offices must be in the minority.

The Committee has the ability to establish Advisory Committees to improve efficiency. One of these Advisory Committees is the Advisory Committee on vaccine compensation, who advise the minister on vaccine injury compensation claims. To assist the Vaccine Injury Committee Vaccine Injury Investigation Teams are appointed by the Director of KDCA from public officials working for KDCA, see Article 21 of the Decree. Vaccine Injury investigation teams consist of no more than ten people who are either experts in vaccination and adverse vaccine reactions or medical personnel. The Vaccine injury Investigation Team considers:-

- the report submitted by the Mayor/Do Governor,
- whether the 'injury is caused by vaccination... ..regardless of abnormality of the relevant vaccine, or negligence of the person who performed the vaccination' Article 71(2) of the Act, and
- other matters determined by the Advisory Committee on Vaccination Injury Compensation in relation to vaccination injury compensation

The finding of the Vaccine Injury Investigation Team are used by the Vaccine Injury Compensation Committee. In Table 3 of their [2021 Article](#) Ro et al set out the Criteria for Causal relationship review by the Vaccine Injury Compensation Committee as follows:-

1. Relevance The obvious case (definitely related, definite)	If there is clear evidence of vaccination, there is proximity to the chronological sequence in which abnormal reactions have emerged, and, for any other reason, causality by vaccination is recognized, and it is recognized as a known vaccine response.
2. If there is a possibility of relevance (probably related, probable)	If there is clear evidence of vaccination, there is proximity to the chronological sequence in which abnormal reactions have emerged, and the causality of the vaccine is recognized more than for any other reason.
3. If there is a possibility of relevance (possibly related, possible)	If there is clear evidence of vaccination and there is proximity to the chronological order in which abnormal reactions have emerged, but the occurrence of results for other reasons is also recognized as the same level of probability as vaccination.
4. Relevant to be acknowledged difficult cases (probably not related, unlikely)	In the case that there is clear evidence of vaccination, and the time sequence in which the abnormal reaction occurred is less close, and the possibility of the vaccine is unclear.
5. Clear the relevance is not the case (definitely not related)	If there is no clear evidence of vaccination, if there is no close proximity of the chronological order in which the adverse reaction has emerged, or if any other obvious cause has been identified.

#### Appeals and the right to litigate

Use of the scheme and litigation are mutually exclusive and a claimant must choose which one they take. If an individual litigates against the manufacturer, vaccine administrator, etc and succeeds they cannot claim from the NFCS and any moneys already paid out by the NFCS will be recovered.

There is an external review process where the Courts review how the decision was made. If the claim to the NFCS is rejected the claimant can claim against the Head of the KDCA, the usual litigation rules apply, the proof of causation is on the claimant. From the judgment in Seoul Administrative Court. Sentencing 2018 Guhap78619 (November 13, 2019) it appears that the court will only examine whether there was abuse of discretion on the part of the head of KDCA, not the substance of the decision.

#### Useful information and links

The Provisions creating the NFCS are set out in legislation, see below. We have not been able to find any further information on the Compensation & Support Center for Covid-19 Vaccine Injury, who are reported to be the scheme administrators.

#### Public Bodies

[Korea Disease Control and Prevention Agency - KDCA](#)

#### Legislation.

[Article 71 of the Infectious Disease Control and Prevention Act \(Act No. 17067, March 4 2020\)](#)

[Enforcement Decree of the Infections Disease Control and Prevention Act \(Presidential Decree No. 28070, May 29 2017\).](#)

#### Academic Articles

Ro D, Ro D, Kim SY. **COVID-19 vaccine injury compensation programs.** J Glob Health Sci. 2021 Dec;3(2):e21. <https://doi.org/10.35500/jghs.2021.3.e21>

## News Reports & Blogs

Seo Ji-Eun & Yi Woo-Lim (2022) 'Centre takes charge of vaccine side effect cases' *Korean JoongAng Daily* 19 July 2022 available at <https://koreajoongangdaily.joins.com/2022/07/19/national/socialAffairs/Korea-Covid19-vaccine/20220719183804365.html> (Accessed 1 March 2023)

Joong Ang Ilbo (2022) 'South Korea Opens Covid Vaccine Compensation Side Effect Centre' *RokDrop* 20 July 2022 [Blog] available at <https://www.rokdrop.net/2022/07/20/south-korea-opens-covid-vaccine-side-effects-compensation-center/> (Accessed 1 March 2023)

## Sri Lanka

Sri Lanka is a member of the COVAX NFCS.

## Taiwan

### Introduction

Taiwan had an existing no-fault compensation scheme for vaccines created 1 June 1988, and which incorporated covid-19 vaccines from 22 March 2021.

This scheme was created under national legislation, the [Infectious Diseases Prevention and Control Act](#) and the associated [Regulations Governing Collection and Review of the Vaccine Injury Compensation Fund](#).

It is administered by the Taiwan Centers for Disease Control ([CDC](#)), who are a public body.

The funding for the scheme comes from a Levy.

### Vaccines Covered

This NFCS covers nationally approved vaccines administered by the Government regardless of purchase or donation. Article 2 of the [Regulations](#) specifies that covered vaccines are

'vaccines that have been issued a permit or approved for importation under a special case status by the central competent authority and have been found qualified by testing or document review.'

It includes vaccines approved for emergency use and standard approvals.

### Injuries Covered

This NFCS covers both temporary and permanent injuries.

Under this NFCS any injury is potentially covered. The scheme will not cover if the adverse reaction is 'commonly seen, mild and expected after vaccination.'

### Charges for making a claim

There is no charge for making a claim under this scheme.

## Claimants

Under this scheme the following categories of individuals are permitted to make a claim.

- Vaccine recipients
- a legal heir if the vaccine recipient has died

Article 5 of the [Regulations](#) sets out eligibility to make a claim. There is no mention of representatives being able to claim or what happens for those who lack capacity. It is unclear whether a claimant is allowed to nominate a legal representative to make their claim. There is no mention of funding for legal representation being provided by the scheme.

## Losses covered

This scheme pays the following

Live vaccine recipient	Dependants of vaccine recipient	Legal heir of a deceased vaccine recipient
Compensation payments are for general categories and are not broken down into economic and non-economic losses.	No Compensation is provided	Compensation payments are for general categories and are not broken down into economic and non-economic losses.

Payments consist of a lump sum payment.

It is unclear whether funeral expenses are available under this NFCS. Article 19 of the [Regulations](#) state 'In a case where death of the alleged victim is suspected to be associated with vaccination and pathological autopsy has been performed, the case may be awarded a funeral subsidy of NT\$300,000.' While this is termed a 'funeral subsidy' it appears to be intended to cover the expense of the autopsy rather than a contribution towards burial expenses and this may be a translation issue. This subsidy payment appears to be available to both successful and unsuccessful claimants.

Compensation under this scheme calculated on an individual basis using tariffs/guidelines to assist with quantification. The quantum of compensation awarded is set out in the Attachment Criteria for Compensation and depends on the injury suffered and the conclusion on causality between the vaccine and the injury. The Attachment Criteria for compensation can be downloaded from the [Regulations](#), and is as follows:-

Type of compensation	Criteria		Amount of Compensation (NT\$100,000)
	Definition/degree of disability	Causality Conclusion	
Compensation for death	-	Vaccine associated	50~600
		Indeterminate	30~350

Compensation for disability	Determined by the types and degrees of disability set forth in regulations for the protection of physically and mentally disabled	4-extremely severe	Vaccine associated	50~600
			Indeterminate	30~350
		3-severe	Vaccine associated	30~500
			Indeterminate	20~300
		2-moderate	Vaccine associated	20~400
			Indeterminate	10~250
1-mild	Vaccine associated	10~250		
	Indeterminate	5~200		
Compensation for severe illness	Illnesses determined by the Catastrophic Illness List from the National Health Insurance or based on severe adverse reactions of medicament as defined in the Regulations for Reporting Severe Adverse Reactions of Medicaments, which do not reach the definition of disability		Vaccine associated	1~300
			Indeterminate	1~120
Compensation for other adverse reactions	Other adverse reactions not meeting the definition of severe illnesses. However, commonly seen, mild and expected adverse reactions of vaccination will not be compensated		Associated/ Indeterminate	0~20

Loss of earnings are not paid/paid under this scheme.

Compensation under this scheme is capped, with a top value of NT\$600,000,000

There is no minimum claim value under this NFCS.

There are certain payments which appear to be a contribution towards the costs of medical care and autopsy services. These are available when the situations set out in Article 19 have occurred regardless of whether the claim is found to be associated with the vaccination. Article 19 states:-

1. In a case where severe adverse reactions suspected to be associated with vaccination are not considered so following review, the case may be awarded a subsidy up to NT\$200,000 after giving considerations to reasonable costs of examination and medical care incurred by the alleged victim for the purpose of clarifying the association between the victim's symptoms and vaccination.

2. In a case where death of the alleged victim is suspected to be associated with vaccination and pathological autopsy has been performed, the case may be awarded a funeral subsidy of NT\$300,000.

3. In a case where a pregnant woman's stillbirth or miscarriage is suspected to be associated with vaccination, and the fetus or embryo has been autopsied or examined, the case may be awarded a subsidy of NT\$100,000 if the gestation was 20 weeks or longer, or NT\$50,000 if the gestation was less than 20 weeks.

#### Time limits for claims

An injury will only be eligible for compensation if it occurs within 'a reasonable time' of the vaccination. This is not specified any further.

A claim under the scheme must be brought within 5 years from the onset of the adverse event or 2 years from the knowledge that the vaccine caused the adverse event.

#### Evaluating claims – standard of proof required

Claims are evaluated by a Vaccine Injury Compensation Working Group. The Working Group meets at least every 60 days and is comprised of 19-25 members including experts in medicine and pharmacy, health, anatomy and pathology, law, and impartial members of the community, etc. However, legal experts or impartial members of the community (non-medical experts) must take up more than 1/3 of total members. Article 9 of the [Regulations](#) defines four functions of the Working Group.

1. Review of vaccine injury compensation claims
2. Assessment of causality between vaccination and alleged injury
3. Determination of the amount of compensation for each vaccine injury
4. Determination of other matters related to vaccine injury compensation.

The Scheme has an interesting causality assessment, set out in Article 13 of the [Regulations](#), with three categories, associated, unassociated and indeterminant, where associated and indeterminant claims are compensated, but at different quantum.

**Unassociated:** The assessment result will be "unassociated" if any of the following situations applies:

- (1) Clinical examination or the laboratory test result substantiates that the injury was caused by something other than vaccination.
- (2) Medical evidence shows no causality or medical evidence does not support causality.
- (3) Medical evidence supports causality. However, the injury did not occur during a reasonable period of time following vaccination.
- (4) It is determined in consideration of medical principles and following a comprehensive review that there is no support for causality between the alleged injury and vaccination.

**Associated:** The assessment result will be "associated" if the following situations all apply:

- (1) Medical evidence, clinical examination or the laboratory test result supports causality between vaccination and the alleged injury.
- (2) The alleged injury occurred within a reasonable period of time following vaccination.
- (3) After a comprehensive review, it is determined that a significant association exists.

**Indeterminate:** The case is free of the situations described in the preceding two subparagraphs and causality cannot be determined following a comprehensive review.

“Medical evidence” referred to in the preceding paragraph is defined as evidence from a population-based study or pathogenesis study that is published in a domestic or foreign journal.

“Determined following comprehensive review” referred to in Paragraph 1 is defined as professional medical judgment made after giving considerations to the medical history of the alleged victim before and after vaccination, the alleged victim’s family history, adverse reactions experienced by the alleged victim in the past after receiving analogous vaccines, medications taken by victim, victim’s exposure to toxins, biologic coherence and other relevant factors.

### Appeals and the right to litigate

It is not clear how the scheme interacts with product liability litigation, there is no mention in the legislation, so it seems likely that an affected individual could litigate.

If a claimant rejects the Working Group’s decision they can ask for an internal review or they can ask the courts for a review.

### Useful information and links

The CDC produces an [annual report](#) including data on claims & financial performance (claim numbers, payments, claim processing timeframes, administrative costs, etc)

### Legislation

[Infectious Diseases Prevention and Control Act](#)

[Regulations Governing Collection and Review of the Vaccine Injury Compensation Fund](#)

## Thailand

Thailand has a national NFCS (detailed below) and is a member of the UNICEF NFCS.

### Introduction

Thailand had existing national legislation providing a legal basis for establishing funding to compensate individuals for damages deriving from treatments provided by Thai health service units: see [National Health Security Act B.E. 2545 \(A.D. 2002\)](#), section 41. On 5 April 2021, the ‘[Announcement of the National Health Security Office](#) on Criteria, Procedures and Conditions for Preliminary Assistance Payment in the event that the service recipient has been damaged by receiving a vaccine against Coronavirus Disease 2019 or COVID-19 (Coronavirus Disease 2019 (COVID-19))’ came into force, establishing a NFCS for Covid-19 vaccine injuries.

The scheme is administered by the National Health Security Office (NHSO). A request for compensation can be filed with a health service unit, Provincial Public Health Office, or National Health Security Office (NHSO) regional office (Announcement of the National Health Security Office 2021, Article 6).

The decision on compensation is made by a sub-committee composed of no more than five members, which should include physicians specializing in infectious diseases or other related fields,

and with the Director of the National Health Security Office regional office acting as chairman of the sub-committee (ANHSO 2021, Article 7).

The funding for the NFCS comes from the National Health Security Fund, which receives funding from the annual government budget and other sources (see [National Health Security Act B.E. 2545 \(A.D. 2002\)](#), section 39).

#### Vaccines Covered

This NFCS covers vaccines administered by the state (according to plans, projects or preventive activities to eliminate the Coronavirus Disease 2019) to 'service recipients' who are Thai citizens (ANHSO, Article 3). The NFCS does not cover vaccines administered by private service providers (ANHSO, Article 4).

#### Injuries Covered

This NFCS covers all injuries arising from receiving vaccination against COVID-19.

There is no specified disablement threshold in the statute.

#### Charges for making a claim

It is not specified whether there is a charge for making a claim under this scheme.

#### Claimants

Under this scheme the following categories of individuals are permitted to make a claim:

- Service recipients who have suffered damage arising from receiving vaccination against COVID-19.
- Legal heirs of service recipients who have suffered damage arising from receiving vaccination against COVID-19.
- 'Sponsors' (a 'sponsor' is defined as 'a person who provides assistance or care for a service recipient before receiving vaccination', see ANHSO, Article 3) or a service unit.

These categories have the right to submit a request for initial assistance at the service unit or the Provincial Public Health Office or the National Health Security Office regional office (ANHSO, Article 6).

It is not specified whether under this scheme the claimant is allowed to nominate a legal representative to make their claim.

According to recent media reports, eligibility criteria for the NFCS have been reviewed by the NHSO in July 2022, so that the scheme should now only cover gold-card universal healthcare members (see <https://www.bangkokpost.com/thailand/general/2389325/nhso-halts-jab-compensation>).

#### Losses covered

This scheme pays the following:

Live vaccine recipient	Dependents of vaccine recipient	Legal heirs of a deceased vaccine recipient
Compensation payments are for <b>general categories</b> and are not broken down into economic and non-economic losses.	<b>No Compensation</b> is specifically provided to the dependents of the vaccine recipient.	Compensation payments are for <b>general categories</b> and are not broken down into economic and non-economic losses.

Payments consist of a lump sum payment.

Funeral expenses are not specifically covered under this Scheme.

Compensation under this scheme calculated on an individual basis using tariffs/guidelines to assist with quantification. Compensation is structured as follows:

In case of death or permanent disability; or a chronic illness that requires lifelong treatment and has a severe impact on living: compensation not exceeding 400,000 baht;

In case of disabilities affecting a claimant's livelihood or claimants who have lost a limb: compensation not exceeding 240,000 baht;

In case of an injury or continuation of illness due to COVID vaccination: compensation not exceeding 100,000 baht.

The maximum quantum that can be awarded is 400,000 baht (which amounts to about 9500 GDP).

#### Time limits for claims

The scheme does not set a time limit between vaccination and the adverse event occurring.

A claim must be filed within 2 years from the occurrence of vaccine-related adverse event (ANHSO, Article 6).

#### Evaluating claims – standard of proof required

The specific standard of proof required by this NFCS is not specified in the legislation. The decision on compensation is made by an expert sub-committee which should include physicians specialising in infectious diseases or other related fields (ANHSO, Article 7).

#### Appeals and the right to litigate

It is not known whether or not this NFCS replaces litigation in court.

It is possible to appeal a decision of the sub-committee to the Secretary-General of the NHSO within thirty days of notification of the decision on the compensation claim (ANHSO 2021, Article 8).

#### Useful information and links

It is not known whether the scheme produces an annual report including data on claims & financial performance (claim numbers, payments, claim processing timeframes, administrative costs, etc).

However, some data on numbers of claims filed, numbers of successful/unsuccessful claims and payments awarded has been made available on the NHSO website (see <https://www.nhso.go.th/news/3444> [in Thai]).

#### **Links to legislation:**

National Health Security Act B.E. 2545 (A.D. 2002) [English translation]:

[https://eng.nhso.go.th/view/1/National\\_Health\\_Security\\_Act\\_B.E.2545/EN-US](https://eng.nhso.go.th/view/1/National_Health_Security_Act_B.E.2545/EN-US)

Announcement of the National Health Security Office - Subject: Criteria, Methods and Conditions for Preliminary Assistance Payment In the event that the service recipient is damaged from receiving the vaccination against the Coronavirus Disease 2019 or COVID-19 (Coronavirus Disease 2019 (COVID-19)) [in Thai]:

<https://dl.parliament.go.th/handle/20.500.13072/578694>

#### **Media reports:**

<https://eng.nhso.go.th/view/1/DescriptionNews/One-billion-baht-paid-to-COVID-19-vaccine-recipients-experiencing-side-effects-/409/EN-US>

<https://www.bangkokpost.com/thailand/general/2292514/b1-7bn-for-adverse-jab-effects>

<https://www.nationthailand.com/in-focus/40014336>

<https://www.bangkokpost.com/thailand/general/2389325/nhso-halts-jab-compensation>

<https://www.nhso.go.th/news/3422> - Deputy Secretary-General of the National Health Security Office on the Thai NFCS providing 'preliminary assistance' to claimants and why sub-committee determinations should not be considered as proof that Covid-19 vaccinations have caused specific adverse reactions.

#### **Other resources:**

Link to preliminary assistance application and appeal forms on the NHSO website:

<https://www.nhso.go.th/downloads/175> [in Thai]

#### **Timor-Leste**

Timor-Leste is a member of the COVAX NFCS and the UNICEF NFCS.

#### **Tongo**

Tongo is a member of the COVAX NFCS and the UNICEF NFCS.

#### **Tuvalu**

Tuvalu is a member of the COVAX NFCS and the UNICEF NFCS.

## Uzbekistan

Uzbekistan is a member of the COVAX NFCS.

## Vanuatu

Vanuatu is a member of the COVAX NFCS and the UNICEF NFCS.

## Vietnam

Vietnam is triple covered; it has a national NFCS (detailed below) and a member of the COVAX NFCS and the UNICEF NFCS.

### Introduction

Vietnam introduced a national no-fault compensation scheme for vaccine injuries in 2016 through the enacting of the [Decree No. 104/2016/NĐ-CP](#) (Decree on Vaccination). There is no specific start date for COVID-19, but as the scheme covers ‘vaccinations against epidemics’, it may be assumed it has covered COVID-19 vaccines since the vaccination programme against COVID-19 began in the country in March 2021 (see [here](#)).

The scheme is administered by the Provincial Department of Health. (Decree No. 104/2016/NĐ-CP, Articles 17-20; see also [Harryandi, Bratadana and Sandyawan 2021](#)).

The funding for the scheme comes from central government (Decree No. 104/2016/NĐ-CP, Article 14.2).

### Vaccines Covered

This NFCS covers vaccines in the expanded national immunization programme and vaccines against epidemics (Decree No. 104/2016/NĐ-CP, Article 15.1).

It is not specified whether the scheme includes both vaccines approved for emergency use and standard approvals.

### Injuries Covered

This NFCS only covers permanent injuries.

Under this NFCS only eligible injuries are covered. Eligible injuries are serious vaccine injuries that result in disability and those resulting in the death of the vaccinated person (Decree No. 104/2016/NĐ-CP, Article 15.2).

### Charges for making a claim

It is not specified whether there are any charges for making a claim under this scheme.

## Claimants

Under this scheme the following categories of individuals are permitted to make a claim:

- Vaccinated person;
- Relatives of a vaccinated person.

See Decree No. 104/2016/NĐ-CP, Article 17.2; see also [Harryandi, Bratadana and Sandyawati 2021](#) and [Nguyen 2019](#).

It is not known whether under this scheme the claimant is allowed to nominate a legal representative to make their claim.

Funding for legal representation is not specifically provided by the scheme.

Note that while Article 17 of the Decree No. 104/2016/NĐ-CP mentions vaccinated people and their relatives as potential claimants, Article 16 of the same Decree also provides for compensation for the caregiver of an injured vaccinated person, that is 'a person who has to take an unpaid leave to take care of a vaccinated person'. It is not clear whether a caregiver who is not a relative of the vaccinated person may directly apply for compensation.

## Losses covered

This scheme pays the following:

<b>Live vaccine recipient</b>	<b>Dependants of vaccine recipient</b>	<b>Relatives of a deceased vaccine recipient</b>
<b>Only eligible economic losses are compensated*</b>	<b>No compensation is specifically provided for dependants</b>	<b>Both eligible economic and eligible non-economic losses are compensated</b>

\*One of the compensated items in cases of injury resulting in disability (a fixed amount equal to 30 months of base salary), however, does not specifically refer to economic or non-economic losses.

It is not clear whether payments consist of a lump sum payment, periodic payments, or a mixture of periodic payments and a lump sum payment.

Under this NFCS, the following compensation is available (see Decree No. 104/2016/NĐ-CP, Article 16):

For vaccine injuries causing disability:

- Fixed amount equal to 30 months of base salary;
- Medical expenses;
- Compensation for loss of or reduced income (including caregiver compensation – see below).

For vaccine injuries resulting in the death of the vaccinated person:

- Funeral expenses (10 months base salary prescribed by the State);
- Medical expenses incurred before the death;
- Mental suffering (VND 100 million for the relatives of a deceased vaccinated person);
- Compensation for loss of or reduced income.

Medical expenses following injury are reimbursed in accordance with health insurance laws if the vaccinated person presents a health insurance card when using medical services. If the vaccinated person does not have a health insurance card when using medical services, the costs are covered in accordance to relevant regulations on medical service prices applied to public health facilities (see Decree No. 104/2016/NĐ-CP, Article 16.3).

Compensation for loss of income or reduced income covers compensation for caregivers who had to take an unpaid leave to take care of a vaccinated person. This is calculated as a daily amount equal to a fraction of the caregiver's salary (which should correspond to a caregiver's monthly social insurance contribution – see Decree No. 104/2016/NĐ-CP, Article 16.4.a), which is then multiplied by the number of days of unpaid leave.

If the salary of the caregiver cannot be determined, the region-based minimum salary in the area where he/she lives at the compensation time is used as a basis of the calculation (see Decree No. 104/2016/NĐ-CP, Article 16.4.b).

Compensation for lost or reduced income is also available for the injured vaccinated person with regards to the income that is lost or reduced during the treatment period (see Decree No. 104/2016/NĐ-CP, Article 16.4.c).

#### Time limits for claims

The scheme does not seem to specify a time limit between vaccination and the adverse event occurring or any time limits on when a claim can be brought.

#### Evaluating claims – standard of proof required

The Provincial Department of Health has 15 working days from the receipt of the claim to complete its investigation on the cause and seriousness of injury, send a notification to the claimant and submit a report to the Ministry of Health (see Decree No. 104/2016/NĐ-CP, Article 16.4.b).

The decision of the Provincial Department of Health on whether to grant compensation is based on the determination on causality of a specialist body, the Expert Advisory Council ([Harryandi, Bratadana and Sandyawan 2021, 244](#)).

The standard of proof required by the Provincial Department of Health does not appear to be further specified in the Decree.

### Appeals and the right to litigate

It is not known whether the right to litigate is affected by the existence of this NFCS.

There seems to be an external review system to review the decisions of the Provincial Department of Health, whereby a claimant may start judicial proceedings and file a lawsuit to challenge the decision of the Department (see [Harryandi, Bratadana and Sandyawan 2021, 244](#)).

Note that Article 20 of the Decree No. 104/2016/NĐ-CP also provides for a ‘reimbursement’ procedure, in which the Provincial Department of Health issues a ‘request for reimbursement’ to be sent to an ‘organization or individual at fault’. There does not seem to be a specific definition of ‘organization or individual at fault’ in the Decree.

### Useful information and links

It is not known whether the scheme produces an annual report including data on claims & financial performance (claim numbers, payments, claim processing timeframes, administrative costs, etc).

### Links to legislation:

Decree No. 104/2016/NĐ-CP: <https://vanbanphapluat.co/decree-104-2016-nd-cp-on-vaccination> (English Translation by LawSoft).

### Academic literature:

Alexander Harryandi, Made Diyosena Bratadana, Stanislaus Demokrasi Sandyawan (2021). ‘Government Liability to Adverse Event Following COVID-19 Vaccine Immunization in Indonesia The Right Form of Access to Justice?’, in *Proceedings of the 2nd International Conference on Law and Human Rights 2021 (ICLHR 2021)*. DOI: 10.2991/assehr.k.211112.031. Available at: <https://www.atlantis-press.com/proceedings/iclhr-21/125963806>.

T. B. A. Nguyen, “No-Fault Versus Strict Liability Compensation Systems in Medical Malpractice Law Advances in Social Science, Education and Humanities Research, volume 592 in Vietnam in Comparison with Belgium, France, and England,” *Asian Journal of Law and Economics*, vol. 10, no. 1, pp. 1-15, 2019, doi: 10.1515/ajle-2018-000. Available at: <https://www.degruyter.com/document/doi/10.1515/ajle-2018-0004/html>

## Multinational Covid-19 NFCS

## COVAX – COVAX No-Fault Compensation Program for AMC Eligible Economies

### Introduction

COVAX is a multi-jurisdiction compensation scheme for COVID-19 vaccine injuries received through the COVAX Facility in the [92 low- and middle-income AMC Eligible Economies](#).

**COVAX Countries:** Afghanistan, Algeria, Angola, Bangladesh, Benin, Bhutan, Bolivia, Burkina Faso, Burundi, Cabo Verde, Cambodia, Cameroon, Central African Republic, Chad, Comoros, Congo Dem. Rep, Congo Rep., Côte d'Ivoire, Djibouti, Dominica, Egypt, El Salvador, Eritrea, Eswatini, Ethiopia, Fiji, Gambia, Ghana, Grenada, Guinea, The, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Kenya, Kiribati, Korea, Dem, People's Rep, Kosovo, Kyrgyz Republic, Lao DPR, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Marshall Islands, Mauritania, Micronesia, Federated States of, Moldova, Mongolia, Morocco, Mozambique, Myanmar, Nepal, Nicaragua, Niger, Nigeria, Pakistan, Papua New Guinea, Philippines, Rwanda, Samoa, São Tomé & Príncipe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Sri Lanka, St Lucia, St Vincent & the Grenadines, Sudan, Syrian Arab Republic, Tajikistan, Tanzania, Timor-Leste, Togo, Tonga, Tunisia, Tuvalu, Uganda, Ukraine, Uzbekistan, Vanuatu, Vietnam, West Bank & Gaza, Yemen Rep., Zambia, Zimbabwe

This scheme is a non-statutory scheme, governed by a [Program Protocol](#).

It is administered by ESIS, Inc., who are a private body (private provider of managed claim services).

The funding for the scheme comes from financial reserves established out of an ad-hoc fund based on a per dose levy charged on each covered vaccine procured or made available through the COVAX Facility for use in AMC Eligible Economies.

### Vaccines Covered

This NFCS covers COVID-19 vaccines procured through COVAX facility to AMC eligible economies.

These are COVID-19 vaccines that 'either (A) have received a WHO Emergency Use (EUL) recommendation or prequalification (if applicable), following authorization from a functional or stringent national regulatory authority of reference for vaccines, or under exceptional circumstances (B) have received either a standard or a conditional marketing authorization, or emergency use authorization, from a stringent regulatory authority of reference for vaccines)' (see [Program Protocol](#), 2.z.i).

The covered vaccines also have to be included in Schedule 1 to the Program Protocol and have been 'earmarked for delivery through the COVAX Facility to the relevant AMC Eligible Economy, or to a Humanitarian Agency for use in the relevant AMC Eligible Economy, up to and inclusive of 30 June 2023' (2.z.ii), have 'received all required approvals and authorizations for importation, distribution and use in the relevant AMC Eligible Economy' (2.z.iii) and have not reached its 'Scope of Coverage Endpoint' (2.z.iv), see 'Time Limits' section below).

### Injuries Covered

This NFCS only covers permanent injuries.

Under this NFCS only eligible injuries are covered. Eligible injuries are serious bodily injuries or illness resulting in permanent total or partial impairment, congenital birth injury resulting in permanent total or partial impairment, or injuries/illness resulting in death.

### Charges for making a claim

There is no charge for making a claim under this scheme.

### Claimants

Under this scheme the following categories of individuals are permitted to make a claim:

- Vaccine recipients ('Patient', see Program Protocol 2.f.i and 2.o):
- Individuals who are duly authorized to represent the vaccine recipient if the vaccine recipient has died, is a child or otherwise lacks legal capacity (see 2.f.i).

The 'Patient' needs to have sustained an injury that 'in the opinion of a Registered Health Professional is deemed to have resulted from a Vaccine or its administration' (2.f.ii).

Under this scheme the claimant is allowed to nominate a legal representative to make their claim.

It is not known whether funding for legal representation is provided by the scheme.

### Losses covered

This scheme pays the following:

Live vaccine recipient	Dependants of a vaccine recipient	Legal heir(s) of a deceased vaccine recipient
Compensation payments are for <b>general categories</b> and are not broken down into economic and non-economic losses.	<b>No Compensation</b> is provided specifically for Dependants	Compensation payments are for <b>general categories</b> and are not broken down into economic and non-economic losses.

Payments consist of a lump sum payment.

It is not specified in the Program Protocol whether funeral expenses are available under this NFCS.

Compensation under this scheme calculated on an individual basis using tariffs/guidelines to assist with quantification.

The amount that can be paid under this NFCS depends on the GDP per capita of the relevant country and the specific harm factor linked to the injury suffered by the vaccinee (GDP per capita of relevant country x 12 x harm factor) (see PP 9.a). Hospital payments of \$100/day can also be awarded for a maximum of 60 days.

The following harm factors are specified in the Protocol:-

Harm Factor	Impairment following vaccination
1.0	Death
1.5	Impairment equal to or greater than 75%
1.0	Impairment equal to or greater than 50% but below 75%

0.5	Impairment equal to or greater than 25% but below 50%
0.25	Impairment equal to or greater than 10% but below 25%
0.1	Impairment below 10%
1.5	Congenital injury/illness causing Impairment equal to or greater than 75%
1.0	Congenital injury/illness causing Impairment equal to or greater than 50% but below 75%
0.5	Congenital injury/illness causing Impairment equal to or greater than 25% but below 50%
0.25	Congenital injury/illness causing Impairment equal to or greater than 10% but below 25%
0.1	Congenital injury/illness causing Impairment below 10%

Hospital payments of \$100/day can also be awarded for a maximum of 60 days.

### Time limits for claims

The scheme does not set a time limit between vaccination and the adverse event occurring. There is a minimum of 30 days between vaccination and making a claim, but no waiting time if the vaccinee is deceased.

**Vaccine Administration.** To be eligible for compensation the vaccine must have been administered before the 'Scope of Coverage Endpoint'. The 'Scope of Coverage Endpoint' means, for each covered vaccine, the date which is 24 months following the date on which the vaccine was first put into circulation by the manufacturer in any country.

**Reporting a Claim.** To be eligible under the scheme a claim must also be brought within the 'Reporting Period' for that vaccine. The Reporting Period starts from the date on which the vaccine was first put into circulation by the manufacturer and terminates 36 to 24 calendar months after the 'Scope of Coverage Endpoint' for the vaccine considered (see COVAX Program Protocol, 2t and 2w, and also [Schedule 1](#)).

[Schedule 6](#) provides a schematic of the time limits for making a claim.

The Reporting Period for any Patient can in no event extend beyond 30 June 2027.

### Evaluating claims – standard of proof required

The standard of proof required by the scheme is the 'most probable cause': the most likely cause (based on the balance of probabilities) that a vaccine or its administration resulted in a claimed Injury.

### Appeals and the right to litigate

Use of the scheme and litigation are mutually exclusive, and a claimant must choose which one they take.

There is an internal appeals process where the NFCS itself reviews the decision.

## Useful information and links

It is not known whether the scheme produces an annual report including data on claims & financial performance (claim numbers, payments, claim processing timeframes, administrative costs, etc).

Link to NFCS website: [covaxclaims.com](https://covaxclaims.com)

Program Protocol Link: <https://covaxclaims.com/program-protocol/>

Schedule 1 (List of vaccines): <https://covaxclaims.com/wp-content/uploads/2021/03/COVAX-Compensation-Program-Vaccine-List.pdf>

Schedule 6 (Reporting Period illustrative diagram): <https://covaxclaims.com/wp-content/uploads/2021/03/COVAX-Compensation-Program-Illustrative-Diagram-of-the-Reporting-Period.pdf>

AMC Eligible Economies list available here: [COVAX CA COIP List COVAX PR V5.pdf \(gavi.org\)](https://gavi.org/covax-ca-coip-list-covax-pr-v5.pdf)

## UNICEF

### Introduction

UNICEF is a multi-jurisdiction compensation scheme covering COVID-19 vaccines which have been either procured and/or delivered by UNICEF on a [Participating Country](#)'s behalf; donated to a Participating Country through UNICEF; or formally included into the Scheme (but otherwise procured and/or delivered but not by or through UNICEF).

This scheme is a non-statutory scheme, governed by a [Program Protocol](#).

It is administered by ESIS, Inc., who are a private body (private provider of managed claim services).

The funding for the scheme comes from financial reserves established out of an ad-hoc fund based on a per dose levy charged on each covered vaccine.

### Vaccines Covered

This NFCS covers COVID-19 vaccines 'received in any Participating Country that [are] either: (i) procured and/or delivered by UNICEF on a Participating Country's behalf; (ii) donated to a Participating Country through UNICEF; or (iii) formally included into the Scheme (but otherwise procured and/or delivered but not by or through UNICEF, that:

(i) either (A) [have] licensure or authorisation from a stringent ("functional") regulatory authority or (B) [have] received WHO prequalification, following licensure or authorisation from a stringent ("functional") regulatory authority, or (C) [have] been issued authorisation for emergency use based on licensure or authorisation by a stringent ("functional") regulatory authority; and

(ii) is included in [Schedule 1](#), as updated from time to time; and

(iii) has received all required approvals and authorisations for importation, distribution and use in the relevant country; and

(iv) has not reached its Scope of Coverage Endpoint.’

(see [Program Protocol](#), 2 “Vaccine”).

For more on the ‘Scope of Coverage Endpoint’, see ‘Time Limits’ section below.

#### Injuries Covered

This NFCS only covers permanent injuries.

Under this NFCS only eligible injuries are covered. Eligible injuries are serious bodily injuries or illness requiring hospitalisation or prolonging an existing hospitalisation and resulting in permanent total or partial impairment; or congenital birth injuries or illness in an unborn or new-born child of a woman who received a covered vaccine resulting in permanent total or partial impairment; or serious injuries/illness resulting in death.

#### Charges for making a claim

There is no charge for making a claim under this scheme.

#### Claimants

Under this scheme the following categories of individuals are permitted to make a claim:

- Vaccine recipient (see PP 2 ‘Patient’), or individual who is duly authorised to represent the vaccine recipient if the vaccine recipient has died, is a child or otherwise lacks legal capacity (duly authorised legal heir in case of death).
- The ‘Patient’ or ‘duly authorized’ representative of the Patient needs to have sustained an injury that ‘in the opinion of a Registered Health Professional is deemed to have resulted from a Vaccine or its administration’ (PP 2 ‘Claimant’).

Under this scheme claimant legal representation is allowed.

It is not known whether funding for legal representation is provided by the scheme.

#### Losses covered

This scheme pays the following:

<b>Live vaccine recipient</b>	<b>Dependents of vaccine recipient</b>	<b>Estate/Legal heirs of a deceased vaccine recipient</b>
<b>Compensation payments are for general categories</b> and are not broken down into economic and non-economic losses.	<b>No Compensation</b> is specifically provided for dependants	<b>Compensation payments are for general categories</b> and are not broken down into economic and non-economic losses.

Payments consist of a lump sum payment.

It is not specified whether funeral expenses are available under this NFCS.

Compensation under this scheme calculated on an individual basis using tariffs/guidelines to assist with quantification.

The amount that can be paid under this NFCS depends on the GDP per capita of the relevant country and the specific harm factor linked to the injury suffered by the vaccinee (GDP per capita of relevant country x 12 x harm factor). Hospital payments of \$100/day can be awarded for a maximum of 60 days (see PP 9).

#### Time limits for claims

The scheme does not set a time limit between vaccination and the adverse event occurring.

A claim under the scheme must be brought within 36 calendar months after the 'Scope of Coverage Endpoint' for the specific vaccine considered (see Schedule 1 to the Program Protocol), provided always that the vaccine was administered before the 'Scope of Coverage Endpoint' (which is 24 months after the relevant vaccine had first been put into circulation). There is also a minimum of 30 days that need to have passed between vaccination and making a claim, but no waiting time if the vaccinee has deceased.

#### Evaluating claims – standard of proof required

The standard of proof required by the scheme is that of 'Most probable cause': the most likely cause (based on the balance of probabilities) that a covered vaccine or its administration resulted in a claimed Injury.

#### Appeals and the right to litigate

Use of the scheme and litigation are mutually exclusive and a claimant must choose which one they take.

There is an internal appeals process where the NFCS itself reviews the decision.

#### Useful information and links

It is not known whether the scheme produces an annual report including data on claims & financial performance (claim numbers, payments, claim processing timeframes, administrative costs, etc).

Link to NFCS website: <https://c19vaccinenfc.com/>

Program Protocol Link: <https://c19vaccinenfc.com/wp-content/uploads/2021/10/Covid-19-Vaccine-Facility-No-Fault-Compensation-Scheme-Protocol.pdf>

Schedule 1 (List of vaccines): <https://c19vaccinenfc.com/wp-content/uploads/2021/10/Covid-19-Vaccine-Facility-No-Fault-Compensation-Scheme-Vaccine-List.pdf>

Schedule 6 (Reporting Period illustrative diagram): <https://c19vaccinenfc.com/wp-content/uploads/2021/10/Covid-19-Vaccine-Facility-No-Fault-Compensation-Scheme-Illustrative-Diagram-of-the-Reporting-Period.pdf>

List of Participating Countries: <https://c19vaccinenfc.com/wp-content/uploads/2021/10/Covid-19-Vaccine-Facility-No-Fault-Compensation-Scheme-List-of-Participating-Countries.pdf>

