



New South Wales

Workers Compensation (Firefighters' Presumptive Rights to Compensation) Bill 2018

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to establish presumptive rights to workers compensation under the *Workers Compensation Act 1987* and the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987* for firefighters suffering from certain kinds of cancer.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 provides that the proposed Act is to be construed with, and as if it formed part of, the *Workers Compensation Act 1987* (**the 1987 Act**), the *Workplace Injury Management and Workers Compensation Act 1998* (**the 1998 Act**) and the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987* (**the volunteer firefighters compensation Act**). The proposed Act prevails to the extent of any inconsistency with those Acts.

Clause 4 defines certain words and expressions used in the proposed Act, including **occupational disease** (which is defined to mean certain kinds of cancer).

Clause 5 defines **eligible firefighter** to mean a worker (within the meaning of the 1987 Act) who is employed as a firefighter or performs firefighting duties as a substantial part of the worker's employment (an **employed firefighter**) or an official fire fighter within the meaning of Part 2 of the volunteer firefighters compensation Act (a **volunteer firefighter**). The clause also defines **service period**.

Clause 6 provides for a rebuttable presumption that an occupational disease contracted by an employed firefighter was contracted in the course of the firefighter's employment and that the employment was the main contributing factor to contracting the disease. The presumption operates for the purposes of claims for compensation under the 1987 Act. That Act limits compensation for disease injuries to diseases that are contracted, aggravated, accelerated or exacerbated, or that deteriorate, in the course of employment (where the employment is the main contributing factor).

Clause 7 provides for a rebuttable presumption that an occupational disease contracted by a volunteer firefighter was contracted in the course of fighting a bush fire and that the fighting of the bush fire was the main contributing factor to contracting the disease. The presumption operates for the purposes of claims for compensation under the volunteer firefighters compensation Act. That Act limits compensation for disease injuries generally to diseases that are contracted, aggravated, accelerated or exacerbated, or that deteriorate, in the course of fighting a bush fire (where the fighting of a bush fire is a contributing factor).

Clause 8 limits the presumptions to occupational diseases contracted during, or within 10 years after, the service period for the firefighter concerned. For that purpose, a disease is taken to have been contracted when it is first diagnosed by a medical practitioner or when the firefighter dies as a result of the disease (whichever occurs first).

Clause 9 further limits the presumptions to firefighters whose service period is not less than the minimum period specified for the occupational disease concerned. For example, the minimum service period is specified as 5 years for primary site brain cancer, 10 years for primary site breast cancer, 15 years for primary site bladder cancer and 25 years for primary site oesophageal cancer.

Clause 10 removes a restriction relating to the time for commencing a claim in relation to an occupational disease.

Clause 11 contains a transitional provision that extends the proposed Act to occupational diseases contracted before the commencement of the provision. The clause also removes a restriction on the making of a further claim or medical assessment under the 1987 Act or the 1998 Act in respect of a disease to which a presumption under the proposed Act applies.

Schedule 1 Occupational diseases

Schedule 1 contains a list of occupational diseases for the purposes of the proposed Act.