



New South Wales

# Workers Compensation Legislation Amendment (Firefighters) 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 amend the *Workers Compensation Act 1987* and the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987* to establish presumptive rights to workers compensation for firefighters in respect of 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.

## Schedule 1      **Amendment of Workers Compensation Act 1987** **No 70**

**Schedule 1 [1]** inserts proposed section 19A into the *Workers Compensation Act 1987* (*the 1987 Act*) to establish presumptive rights to compensation under that Act for firefighters in respect of certain cancers. The presumption under the proposed section applies to a worker who has been engaged in firefighting employment with a person, body or agency prescribed by regulations under the 1987 Act and who has, in the course of that employment, performed certain firefighting activities or provided training or instruction in firefighting activities.

The presumption applies for the purposes of provisions of the 1987 Act that set out eligibility requirements for entitlements to compensation under the Act. The effect of the presumption is that, for the purposes of those provisions, the disease will be presumed to have been contracted in the course of the worker's firefighting employment, and the employment will be presumed to have

been a contributing factor, and, in particular, a substantial contributing factor, to contracting the disease.

The presumption is further limited to firefighters who have been engaged in firefighting employment for at least the minimum period specified in proposed Schedule 4 in relation to the kind of cancer concerned (*the qualifying service period*). Voluntary firefighting service as a member of a rural fire brigade is to be counted towards the qualifying service period.

The period of 6 months within which a claim for compensation is generally required to be made is taken to commence on the earlier of the date of diagnosis or the date of death as a result of the cancer.

**Schedule 1 [2]** inserts proposed Schedule 4 into the 1987 Act, which sets out the kinds of cancer to which presumptive rights to compensation apply and the corresponding qualifying service periods.

**Schedule 1 [3]** makes provision for matters of a savings or transitional nature.

**Schedule 1 [4]** inserts into the 1987 Act provisions of general application authorising the making of regulations of a savings or transitional nature in connection with amendments to workers compensation legislation. The provisions are consistent with regulation-making powers previously inserted into that Act in connection with other amendments to workers compensation legislation. **Schedule 1 [5] and [6]** make consequential amendments.

## **Schedule 2      Amendment of Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987 No 83**

**Schedule 2** inserts proposed section 10A into the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987* to establish presumptive rights to compensation under that Act for volunteer firefighters (who are members of rural fire brigades) in respect of certain cancers. The presumption under the proposed section applies to a volunteer firefighter who has, in the capacity of a volunteer, performed certain firefighting activities or provided training or instruction in firefighting activities.

The presumption applies for the purposes of provisions of the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987* that set out eligibility requirements for entitlements to compensation under the Act. The general effect of the presumption is that, for the purposes of those provisions, the disease will be presumed to have been contracted in the course of fighting a bush fire, and the fighting of the bush fire will be presumed to have been a substantial contributing factor to contracting the disease.

Schedule 2 also inserts into the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987* provisions relating to the qualifying service period and time limit for making a claim for compensation that are consistent with those inserted into the 1987 Act (in relation to employed firefighters) by Schedule 1.

## **Schedule 3      Amendment of Workers Compensation Regulation 2016**

**Schedule 3** amends the *Workers Compensation Regulation 2016* by prescribing the bodies and agencies whose firefighting employees are eligible for a presumptive right established by Schedule 1.