

New South Wales

Workers Compensation Legislation Amendment (Firefighters) Bill 2025

Explanatory note

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

Overview of Bill

The objects of this Bill are to—

- (a) amend the *Workers Compensation Act 1987* (**the Act**) to expand the list of cancers presumed to be work-related for eligible firefighters, and
- (b) make consequential amendments to the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*, including providing a presumption that a cancer set out under the Act, Schedule 4, proposed Part 2 contracted by an eligible volunteer firefighter was contracted while fighting a bush fire and that the fighting of the bush fire was a contributing factor to the disease.

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 a note to clarify that funding for claims relating to certain cancers contracted by an eligible firefighter are provided for in certain other Acts.

Schedule 1[2] amends the definition of *eligible firefighter*.

Schedule 1[4] inserts a definition of *deemed worker* into the Act, section 19A.

Schedule 1[5] provides that the firefighters' diseases set out under the Act, Schedule 4, proposed Part 1 are Category 1 diseases.

Schedule 1[6] inserts proposed Schedule 4, Part 2 which sets out certain cancers (*Category 2 diseases*) and the corresponding qualifying service periods to which presumptions to workers compensation apply. **Schedule 1[3]** makes a consequential amendment.

Schedule 1[7] inserts a transitional clause consequent on the enactment of the proposed Act.

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

Schedule 2[1] inserts definitions of *advisory panel*, *frontline hazardous firefighting activity test*, *guidelines* and *ICNSW*.

Schedule 2[3] inserts proposed section 10B which provides a presumption that a Category 2 disease contracted by an eligible volunteer firefighter was contracted while fighting a bush fire and that the fighting of the bushfire was a contributing factor to the disease. It also provides for how an eligible volunteer firefighter's service period must be calculated.

Schedule 2[4] inserts proposed sections 32A and 32B. Proposed section 32A provides that the Minister administering the *State Insurance and Care Governance Act 2015*, Part 2 must establish an advisory panel to review and advise on claims made by volunteer firefighters in relation to a Category 2 disease. The proposed section also provides for the members of the advisory panel, their appointment and their required expertise. Proposed section 32B provides that the Minister administering the *State Insurance and Care Governance Act 2015*, Part 2 must also make guidelines to be applied by the advisory panel when assessing and determining a claim.

Schedule 2[5] inserts proposed Schedule 2 to provide for the following for an advisory panel established under proposed section 32A—

- (a) the term of office for members,
- (b) part-time appointments,
- (c) the remuneration of members,
- (d) the circumstances in which the office of a member becomes vacant,
- (e) the chairperson of the advisory panel,
- (f) the disclosure of pecuniary or other interests,
- (g) the effect of the *Government Sector Employment Act 2013* on the advisory panel,
- (h) the procedure for advisory panel meetings.

Schedule 2[2] makes an amendment consequential to Schedule 1[5].



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Workers Compensation Legislation Amendment (Firefighters) Bill 2025

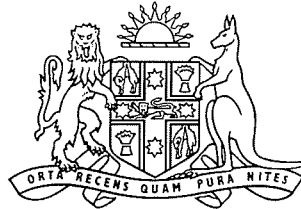
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This PUBLIC BILL, originated in the LEGISLATIVE COUNCIL and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council

Clerk of the Parliaments



New South Wales

Workers Compensation Legislation Amendment (Firefighters) Bill 2025

No , 2025

A Bill for

An Act to amend the *Workers Compensation Act 1987* in relation to presumptions relating to certain cancers if contracted by eligible firefighters; and to make consequential amendments to the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*.

The LEGISLATIVE ASSEMBLY has this day agreed to this Bill with/without amendment.

Legislative Assembly

Clerk of the Legislative Assembly

The Legislature of New South Wales enacts—	1
1 Name of Act	2
This Act is the <i>Workers Compensation Legislation Amendment (Firefighters) Act 2025</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6

Schedule 1 Amendment of Workers Compensation Act 1987 No 70

[1] Section 19A Presumptions relating to certain cancers—firefighters

Omit section 19A(1), note. Insert instead—

Note 1— Amendments made to section 9A and section 4, definition of *disease injury* by the *Workers Compensation Legislation Amendment Act 2012* do not apply to police officers, paramedics or firefighters. See this Act, Schedule 6, Part 19H, clause 25.

Note 2— Funding for claims made under this section is provided for in the *Fire and Rescue NSW Act 1989*, the *Rural Fires Act 1997* and the *Emergency Services Levy Act 2017* and, for volunteer firefighters, the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*.

[2] Section 19A(2)(b)

Omit the paragraph. Insert instead—

- (b) has contracted a disease that is a cancer of a kind specified in—
 - (i) for a worker, other than an eligible volunteer firefighter or deemed worker—Schedule 4, Part 1 or 2, or
 - (ii) for an eligible volunteer firefighter or deemed worker—
 - (A) Schedule 4, Part 1, or
 - (B) Schedule 4, Part 2, but only if the eligible volunteer firefighter or deemed worker meets the requirements set out in the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*, section 10B.

[3] Section 19A(4)

Insert “, Part 1 or 2” after “Schedule 4”.

[4] Section 19A(9)

Insert in alphabetical order—

deemed worker means a person deemed to be a worker in accordance with the 1998 Act, Schedule 1, clause 13.

[5] Schedule 4 Firefighters’ diseases

Insert after the heading to the schedule—

Part 1 Category 1 diseases

[6] Schedule 4, Part 2

Insert at the end of the schedule—

Note— Part 1 applies to all eligible firefighters, including eligible volunteer firefighters and deemed workers. See the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*, section 10A.

Part 2 Category 2 diseases

Column 1	Column 2
Disease	Qualifying service period
Primary site pancreatic cancer	10 years
Primary site thyroid cancer	10 years

Column 1	Column 2	
Disease	Qualifying service period	
Primary site cervical cancer	10 years	
Primary site ovarian cancer	10 years	
Primary site uterine cancer	10 years	
Primary site vaginal cancer	10 years	
Primary site vulval cancer	10 years	
Primary site penile cancer	15 years	
Primary site lung cancer	15 years	
Primary site skin cancer	15 years	
Note — Part 2 applies to all eligible paid firefighters, but applies to eligible volunteer firefighters and deemed workers only in certain circumstances. See the <i>Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987</i> , section 10B.		1 2 3
[7] Schedule 6 Savings, transitional and other provisions		4
Insert at the end of the schedule, with appropriate part and clause numbering—		5
Part	Provision consequent on enactment of Workers Compensation Legislation Amendment (Firefighters) Act 2025	6 7 8
Application of amendments		9
An amendment made by the <i>Workers Compensation Legislation Amendment (Firefighters) Act 2025</i> , Schedule 1[2] or [6] applies only to a disease first diagnosed by a medical practitioner after the commencement of the amendment.		10 11 12 13

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

[1] **Section 3 Definitions**

Insert in alphabetical order in section 3(1)—

advisory panel means the panel established under section 32A.

frontline hazardous firefighting activity test means the test specified in the guidelines for determining whether a person has regularly engaged in frontline hazardous firefighting activity.

guidelines means the guidelines made under section 32B.

ICNSW has the same meaning as in the *State Insurance and Care Governance Act 2015*.

[2] **Section 10A Presumptions relating to certain cancers—firefighters**

Omit “Schedule 4 to the Principal Act” wherever occurring in section 10A(2)(b) and (3).

Insert instead “the Principal Act, Schedule 4, Part 1”.

[3] **Section 10B**

Insert after section 10A—

10B Special requirements for Part 2 cancers—firefighters

(1) This section applies to a volunteer firefighter (an *eligible volunteer firefighter*) who—

(a) has contracted a disease that is a cancer of a kind specified in the Principal Act, Schedule 4, Part 2, and

(b) has been assessed by the advisory panel as—

(i) meeting the requirements of the frontline hazardous firefighting activity test, and

(ii) having qualifications in bush firefighting prescribed by the regulations for this section.

(2) In the application of this Act to the eligible volunteer firefighter, it is presumed, unless the contrary is established, that—

(a) the disease contracted by the volunteer firefighter was contracted in the course of fighting a bush fire, and

(b) the fighting of the bush fire was a contributing factor to the disease.

(3) This section does not apply to a disease contracted by an eligible volunteer firefighter if the total aggregate period during which the eligible volunteer firefighter has served as volunteer fire fighter as at the date of injury (the *service period*) is less than the qualifying service period specified for the disease in the Principal Act, Schedule 4, Part 2.

(4) A period during which an eligible volunteer firefighter has been engaged in firefighting employment must be counted towards the service period.

(5) However, a period during which the eligible volunteer firefighter concurrently performs service as an eligible fire fighter and engages in firefighting employment must be counted once only.

(6) For the application of the 1998 Act, section 261 to a disease to which a presumption under this section applies, the period required by the section for

the making of a claim for compensation in relation to the disease is taken to commence on the date of injury in relation to the disease, regardless of when the eligible volunteer firefighter or another person first became aware of the disease.

(7) This section applies despite another provision of—

- (a) this Act, or
- (b) the Principal Act, or
- (c) the 1998 Act.

(8) In this section—

date of injury, in relation to a disease, means the date of whichever of the following occurs first—

- (a) the disease is first diagnosed by a medical practitioner,
- (b) the volunteer firefighter dies as a result of the disease.

firefighting employment has the same meaning as in the Principal Act, section 19A.

frontline hazardous firefighting activities means firefighting, performed by a volunteer firefighter, in which the volunteer firefighter was directly engaged in activities that involve—

- (a) directly extinguishing, controlling or preventing the spread of fire, including as part of a hazard reduction burn, and
- (b) exposure to substances used in, or other hazards arising from, extinguishing, controlling or preventing the spread of fire, including fire directly impacting structures or vehicles.

volunteer firefighter means—

- (a) an official firefighter, or
- (b) a person who is a deemed worker under the *Workplace Injury Management and Workers Compensation Act 1998*, Schedule 1, clause 13.

[4] Sections 32A and 32B

Insert after section 32—

32A Advisory panel

(1) The Minister administering the *State Insurance and Care Governance Act 2015*, Part 2 must establish an advisory panel to—

- (a) review, in accordance with guidelines made under section 32B, all claims made by volunteer firefighters, within the meaning of section 10B, in relation to a disease that is a cancer of a kind specified in the Principal Act, Schedule 4, Part 2, and
- (b) assess and advise ICNSW, acting for the Self Insurance Corporation, whether the volunteer firefighters making the claims have—
 - (i) met the frontline hazardous firefighting activity test, and
 - (ii) the prescribed qualifications in bush firefighting for section 10B.

(2) The advisory panel consists of—

- (a) not more than 5 ordinary members, and
- (b) 5 alternate members who must act temporarily in a member's place if the member is unable to act because of illness, absence or other cause.

- (3) Members of the advisory panel must be appointed by the Minister administering the *State Insurance and Care Governance Act 2015*, Part 2 with the agreement of—
 - (a) the Minister administering the *State Emergency and Rescue Management Act 1989*, and
 - (b) the Minister administering the *State Insurance and Care Governance Act 2015*, Part 3.

Note— The *State Insurance and Care Governance Act 2015*, Part 2 relates to ICNSW and Part 3 relates to the State Insurance Regulatory Authority.
- (4) A member of the advisory panel must have expertise in at least one of the following—
 - (a) firefighting,
 - (b) workers compensation,
 - (c) the legal profession,
 - (d) the medical profession, or scientific research, relating to the relationship between firefighters' occupational exposure and cancers.
- (5) Members of the advisory panel must not be—
 - (a) current members of a paid or volunteer firefighting organisation, or
 - (b) an official of an industrial body responsible for an enterprise agreement that applies to a paid or volunteer firefighting organisation.
- (6) Schedule 2 has effect in relation to the advisory panel.

32B Guidelines

- (1) The Minister administering the *State Insurance and Care Governance Act 2015*, Part 2 must make guidelines to be applied—
 - (a) by the advisory panel when assessing, whether a person, for determining a claim in accordance with section 10B in relation to a disease that is cancer of a kind specified in the Principal Act, Schedule 4, Part 2—
 - (i) meets the frontline hazardous firefighting activity test, and
 - (ii) has the qualifications in bush firefighting prescribed by the regulations for section 10B(1)(b)(ii), and
 - (b) in determining claims under section 10B in relation to a disease that is cancer of a kind specified in the Principal Act, Schedule 4, Part 2.
- (2) The guidelines must provide for—
 - (a) the operation of the frontline hazardous firefighting activity test, including—
 - (i) what the advisory panel must consider in determining whether a person has engaged in frontline hazardous firefighting activity on a regular basis, and
 - (ii) the procedures and timeframes for the advisory panel to conduct reviews and report to ICNSW, and
 - (b) matters the advisory panel must consider in assessing whether a person has the qualifications in bush firefighting prescribed by the regulations for section 10B(1)(b)(ii).

[5] Schedule 2

Insert after Schedule 1—

Schedule 2	Provisions relating to advisory panel	1
	section 32A(6)	2
1	Definitions	3
	In this schedule—	4
	<i>advisory panel</i> means the advisory panel established under section 32A.	5
	<i>member</i> means a member of the advisory panel.	6
	<i>Minister</i> means the Minister administering the <i>State Insurance and Care Governance Act 2015</i> , Part 2.	7
		8
3	Term of office for members	9
(1)	A member holds office for a term not exceeding 3 years.	10
(2)	A member is eligible for reappointment.	11
(3)	A member, if otherwise eligible, may be appointed for a maximum of 3 consecutive terms.	12
		13
4	Part-time appointments	14
	A member holds office on a part-time basis.	15
5	Remuneration	16
	The Minister may determine the rate of remuneration for a member.	17
6	Vacancy in office of member	18
(1)	The office of a member becomes vacant if the appointed member—	19
(a)	dies, or	20
(b)	completes a term of office and is not reappointed, or	21
(c)	resigns the office, or	22
(d)	is removed from office by the Minister, or	23
(e)	is absent from 3 consecutive meetings of the advisory panel of which reasonable notice has been given to the member, unless the appointed member is granted leave or excused by the panel, or	24
		25
		26
(f)	becomes personally insolvent, or	27
(g)	becomes a mentally incapacitated person, or	28
(h)	is convicted—	29
(i)	in New South Wales of an offence punishable by imprisonment for 12 months or more, or	30
		31
(ii)	elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence punishable by imprisonment for 12 months or more.	32
		33
		34
(2)	If the office of a member becomes vacant, a person must, subject to this Act and the regulations, be appointed to fill the vacancy.	35
		36
7	Chairperson	37
(1)	The Minister must appoint a member as chairperson of the advisory panel.	38
(2)	The chairperson must preside at an advisory panel meeting.	39

(3)	If the chairperson is absent from an advisory panel meeting, a member elected by the members present at the meeting must preside at the meeting.	1 2
(4)	The presiding member has a deliberative vote and, if there is an equality of votes, has a second or casting vote.	3 4
8	Disclosure of pecuniary and other interests	5
(1)	This section applies if—	6
(a)	a member has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered by the advisory panel, and	7 8
(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter.	9 10
(2)	The member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at an advisory panel meeting.	11 12 13
(3)	Particulars of a disclosure made under this section must be recorded by the advisory panel and made available to a person on request.	14 15
(4)	It is sufficient disclosure of the nature of an interest relating to a specified company, body or person if the member has previously disclosed that the member—	16 17 18
(a)	is a member of, or employed by, the company or body, or	19
(b)	is a partner of, or employed by, the person, or	20
(c)	has another specified interest relating to the company, body or person.	21
(5)	After a member has disclosed the nature of an interest in a matter, the member must not, unless the Minister or advisory panel otherwise determines—	22 23
(a)	be present during a deliberation of the panel about the matter, or	24
(b)	take part in a decision of the panel about the matter.	25
(6)	A member who has a direct or indirect pecuniary or other interest in a matter to which a disclosure relates must not—	26 27
(a)	be present when the advisory panel is making a determination under subsection (5), or	28 29
(b)	take part in the making of the determination.	30
(7)	A contravention of this section does not invalidate a decision of the advisory panel.	31 32
9	Effect of other legislation	33
	The provisions of the <i>Government Sector Employment Act 2013</i> relating to the employment of Public Service employees do not apply to a member.	34 35
10	Procedure for advisory panel meetings	36
(1)	The quorum for an advisory panel meeting is a majority of its members.	37
(2)	Each member is entitled to 1 vote in relation to a decision at an advisory panel meeting.	38 39
(3)	A decision supported by a majority of the votes cast by members at an advisory panel meeting is taken to be a decision of the advisory panel.	40 41

- (4)

The advisory panel may, subject to this Act and the regulations, determine procedures in relation to the form and content of advisory panel meetings.

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2