

Act No. 83

WORKERS COMPENSATION (BUSH FIRE, EMERGENCY AND RESCUE SERVICES) BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Workers Compensation Bill 1987.

The object of this Bill is to continue the special compensation scheme (at present contained in Parts IIA and IIB of the Workers' Compensation Act 1926) for bush fire fighters, emergency service workers and rescue association workers. The Scheme is administered by the State Compensation Board and funded from the Bush Fire Fighting Fund (in the case of bush fire fighters) and the Consolidated Fund (in the case of the other workers). The benefits under the Scheme are based on the benefits for workers under the workers compensation legislation. Accordingly the changes to those benefits in the Workers Compensation Act 1987 are (with some variation) adopted in this Bill.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that, with minor exceptions, the proposed Act will commence on a day appointed by the Governor-in-Council.

Clause 3 contains definitions and other interpretative provisions. Defined terms include "Board" which means the State Compensation Board and "Principal Act" which means the proposed Workers Compensation Act 1987.

Clause 4 provides that the proposed Act binds the Crown.

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PART 2—BUSH FIRE FIGHTERS COMPENSATION

DIVISION 1—*Preliminary and interpretation*

Clause 5 contains definitions for the purposes of Part 2 of the proposed Act. An important definition is that of “fire fighter” which means the members and officers of an official bush fire brigade (“official fire fighters”) and certain other persons who voluntarily and without remuneration engage in fighting a bush fire.

Clause 6 extends the operation of the compensation scheme provided by Part 2 of the proposed Act to matters occurring outside New South Wales, in certain limited circumstances.

Clause 7 defines injury (for which compensation is payable) to mean—

- (a) personal injury received by a fire fighter while fighting a bush fire or while making a relevant journey to or from a bush fire;
- (b) personal injury received by an official fire fighter while carrying out associated operations or work (such as hazard reduction work) or while making a relevant journey to or from an associated operation or work;
- (c) a disease which is contracted, aggravated, accelerated or exacerbated, or which deteriorates, while doing anything described in paragraph (a) or (b) if doing that thing was a contributing factor.

Clause 8 defines “associated operation or work”.

Clause 9 defines “relevant journey”.

DIVISION 2—*Entitlement to compensation*

Under this Division (clauses 10 and 11) a fire fighter who receives an injury (or, if death results, the fire fighter’s dependants) is entitled to the compensation that is payable to a worker under the Principal Act—

- (a) in the case of death (the lump sum payment is payable, as at present, irrespective of whether the fire fighter left any dependants);
- (b) in case of incapacity for work (the weekly payment is payable without regard to the \$500 maximum limit imposed under the Principal Act);
- (c) for medical or related treatment, hospital treatment or ambulance service; and
- (d) for permanent injuries (including the new benefit for pain and suffering).

The Division also provides (as at present) for compensation for damage, loss or destruction of personal property, vehicles and certain other things (clauses 12–15).

The Division also makes provision (as at present) for the making of claims in accordance with the Principal Act and for the determination of claims by the Board (including a right of appeal to the workers compensation commissioners) (clauses 15 and 16).

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DIVISION 3—*Miscellaneous*

This Division continues certain miscellaneous provisions that—

- (a) extend the coverage of the scheme to certain persons supplying food or refreshments (clause 17);
- (b) exclude certain matters not directly related to fighting bush fires which occur within the area of responsibility of the Board of Fire Commissioners (clause 18);
- (c) provide for the establishment of the Bush Fire Fighters Compensation Fund, the assessment and payment of contributions to the Fund from the Bush Fire Fighters Fund and advances by the Treasurer to the Fund (clauses 19–21); and
- (d) prohibit increased premiums being charged for bush fire damage under motor vehicle insurance policies (clause 22).

PART 3—EMERGENCY AND RESCUE WORKERS COMPENSATION

This Part (clauses 23–31) continues the scheme enacted in Part IIB of the Workers' Compensation Act 1926 (but not yet in force) which extends the benefits payable to bush fire fighters to members of the State Emergency Services ("emergency service workers") and the Volunteer Rescue Association of New South Wales ("rescue association workers").

As at present the persons to be covered may be extended or restricted by regulations or, as with bush fire fighters, extended at the discretion of the State Compensation Board. The only significant difference is that the scheme is funded from Consolidated Revenue and does not cover extended benefits for damage to, or loss or destruction of, vehicles and other things used by bush fire fighters.

PART 4—MISCELLANEOUS

This Part (clauses 32–35) contains miscellaneous provisions which—

- (a) apply relevant provisions of the Principal Act;
 - (b) provide for a summary procedure for any offence;
 - (c) authorise the making of regulations; and
 - (d) give effect to transitional provisions in the former Act that have continuing application.
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