

Workers Compensation Legislation Amendment (Firefighters) Act 2018 No 93

[2018-93]



New South Wales

Status Information

Currency of version

Repealed version for 29 November 2018 to 7 December 2018 (accessed 28 November 2024 at 9:49)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

This Act was repealed by sec 30C of the [Interpretation Act 1987 No 15](#) with effect from 8.12.2018.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Workers Compensation Legislation Amendment (Firefighters) Act 2018 No 93



New South Wales

An Act to amend workers compensation legislation to establish presumptive rights to compensation for firefighters in respect of certain cancers.

1 Name of Act

This Act is the *Workers Compensation Legislation Amendment (Firefighters) Act 2018*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).
- (2) Schedule 1 [3]–[6] commence on the date of assent to this Act.

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

[1] Section 19A

Insert after section 19:

19A Presumptions relating to certain cancers—firefighters

- (1) In the application of this Act to a worker who is an eligible firefighter, it is presumed (unless the contrary is established) that the disease contracted by the worker was contracted in the course of the worker's firefighting employment and that employment was:
 - (a) for the purposes of the definition of **disease injury** in section 4, a contributing factor to contracting the disease, and
 - (b) for the purposes of section 9A, a substantial contributing factor to contracting the disease.

Note—

Amendments made to section 9A and the definition of **disease injury** in section 4 by Schedule 7 to

the *Workers Compensation Legislation Amendment Act 2012* do not apply to police officers, paramedics or firefighters. See clause 25 of Part 19H of Schedule 6 to this Act.

- (2) A worker is an **eligible firefighter** if the worker:
 - (a) has, at any time, been engaged in firefighting employment, and
 - (b) has contracted a disease that is a cancer of a kind specified in Schedule 4.
- (3) A worker has been engaged in **firefighting employment** if:
 - (a) the worker has, at any time, been employed by any person, body or agency (or former body or agency) prescribed for the purposes of this section by the regulations, and
 - (b) in the course of that employment, the worker has performed firefighting activities.
- (4) This section does not apply to a disease contracted by an eligible firefighter if the total aggregate period during which the worker has been engaged in firefighting employment as at the date of injury (**the service period**) is less than the qualifying service period specified for the disease in Schedule 4.
- (5) Any period during which an eligible firefighter has served in the capacity of an eligible volunteer firefighter is to be counted towards the service period.
- (6) However, any period during which the eligible firefighter concurrently serves as an eligible volunteer firefighter and engages in firefighting employment is to be counted once only.
- (7) For the purposes of the application of section 261 of the 1998 Act to a disease to which a presumption under this section applies, the period required by that section for the making of a claim for compensation in respect of the disease is taken to commence on the date of injury in relation to the disease (regardless of when the eligible firefighter or any other person first became aware of the disease).
- (8) Any compensation payable on the basis of a presumption under this section to an eligible firefighter who, on the last day of the service period, concurrently served as an eligible volunteer firefighter and engaged in firefighting employment with an employer is payable under this Act by that employer.
- (9) 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 firefighter dies as a result of the disease.

eligible volunteer firefighter means an official fire fighter within the meaning of Part 2 of the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*.

firefighting activities means any of the following activities performed by a worker:

- (a) extinguishing, controlling or preventing the spread of fire,
- (b) bush fire hazard reduction work within the meaning of the *Rural Fires Act 1997*,
- (c) the provision of training or instruction in the performance of an activity referred to in paragraph (a) or (b) resulting in exposure of the worker to smoke or other hazards of fire.

[2] Schedule 4

Insert after Schedule 3:

Schedule 4 Firefighters' diseases

Column 1	Column 2
Disease	Qualifying service period
Primary site brain cancer	5 years
Primary leukaemia	5 years
Primary site breast cancer	10 years
Primary site testicular cancer	10 years
Primary site bladder cancer	15 years
Primary site kidney cancer	15 years
Primary non-Hodgkin lymphoma	15 years
Multiple myeloma	15 years
Primary site prostate cancer	15 years
Primary site ureter cancer	15 years
Primary site colorectal cancer	15 years
Primary site oesophageal cancer	25 years

[3]-[6] (Repealed)

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

Section 10A

Insert after section 10:

10A Presumptions relating to certain cancers—firefighters

- (1) In the application of this Act to an eligible volunteer firefighter, it is presumed (unless the contrary is established) that:
 - (a) the disease contracted by the worker 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.
- (2) This section applies to an official fire fighter (an **eligible volunteer firefighter**) who:
 - (a) in the capacity of an official fire fighter, has at any time performed firefighting activities, and
 - (b) has contracted a disease that is a cancer of a kind specified in Schedule 4 to the Principal Act.
- (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 an official fire fighter as at the date of injury (**the service period**) is less than the qualifying service period specified for the disease in Schedule 4 to the Principal Act.
- (4) Any period during which an eligible volunteer firefighter has been engaged in firefighting employment is to be counted towards the service period.
- (5) However, any period during which the eligible volunteer firefighter concurrently performs service as an official fire fighter and engages in firefighting employment is to be counted once only.
- (6) For the purposes of the application of section 261 of the 1998 Act to a disease to which a presumption under this section applies, the period required by that section for the making of a claim for compensation in respect of the disease is taken to commence on the date of injury in relation to the disease (regardless of when the eligible volunteer firefighter or any other person first became aware of the disease).

(7) 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 official fire fighter dies as a result of the disease.

firefighting activities and ***firefighting employment*** have the same meanings as in section 19A of the Principal Act.

Schedule 3 Amendment of [Workers Compensation Regulation 2016](#)

Clause 5A

Insert after clause 5:

5A Firefighting bodies and agencies

The following bodies and agencies are prescribed for the purposes of section 19A of the 1987 Act:

- (a) the NSW Rural Fire Service,
- (b) Fire and Rescue NSW,
- (c) the Office of Environment and Heritage,
- (d) the Forestry Corporation,
- (e) Sydney Trains.