

TASMANIA

**WORKERS REHABILITATION AND
COMPENSATION AMENDMENT (FIRE-
FIGHTERS) BILL 2013**

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**WORKERS REHABILITATION AND
COMPENSATION AMENDMENT (FIRE-
FIGHTERS) BILL 2013**

*(Brought in by the Minister for Workplace Relations, the
Honourable David James O'Byrne)*

A BILL FOR

**An Act to amend the *Workers Rehabilitation and
Compensation Act 1988***

Be it enacted by His Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Workers
Rehabilitation and Compensation Amendment
(Fire-fighters) Act 2013*.

2. Commencement

This Act commences on the day on which this
Act receives the Royal Assent.

3. Principal Act

In this Act, the *Workers Rehabilitation and
Compensation Act 1988** is referred to as the
Principal Act.

*No. 4 of 1988

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4. Sections 27 and 28 inserted

After section 26 of the Principal Act, the following sections are inserted in Division 1:

27. Presumption as to cause of certain diseases in relation to fire-fighters

(1) Subject to section 25(2), where –

(a) a worker suffers an injury –

(i) that is a disease referred to in column 1 of Schedule 5; and

(ii) that occurs on or after the day on which this section commences; and

(b) the injury occurs during a period in which the worker is employed as a fire-fighter or within the 10-year period after the worker ceases to be employed as a fire-fighter; and

(c) before the date on which the injury that is a disease referred to in column 1 of Schedule 5 occurred, the worker is employed as a fire-fighter for at least the period specified in column 2 of Schedule 5 opposite the disease; and

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(d) if the disease –

(i) is primary site brain cancer or primary site leukemia, the worker has at least 260 exposure events as a fire-fighter within any 5-year period of the worker's employment as a fire-fighter; or

(ii) is not a disease referred to in subparagraph (i), the worker has at least 520 exposure events as a fire-fighter within any 10-year period of the worker's employment as a fire-fighter –

the worker's employment as a fire-fighter is, in the absence of evidence to the contrary, taken to have contributed to a substantial degree to that injury.

(2) For the purposes of this section –

(a) a person is employed as a fire-fighter if the person is employed as a career fire-fighter or is engaged as a volunteer fire-fighter; and

(b) a reference to employment as a fire-fighter includes a reference to

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engagement as a volunteer fire-
fighter; and

(c) a reference to a period of
employment of a worker as a fire-
fighter includes a reference to a
period –

(i) beginning on the first day
on which the worker is a
volunteer fire-fighter; and

(ii) ending on the last day,
before the worker suffers
an injury to which this
section relates, on which
the worker is a volunteer
fire-fighter.

(3) For the purposes of determining a period
under subsection (1)(c), all periods of
employment of a worker as a fire-fighter
are to be combined.

(4) For the purposes of this section –

(a) a worker has an exposure event as
a fire-fighter if the worker attends
as a fire-fighter at an incident
(other than an avoidable call-out)
recorded in accordance with the
system for recording incidents
that is approved by the Chief
Officer; and

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- (b) all of the attendances as a fire-fighter by a worker at any one incident referred to in paragraph (a) are to be taken to comprise one exposure event.
- (5) Despite section 3(5), where a worker suffers an injury that is a disease, the injury is, for the purposes of this section, to be taken to have occurred on the day on which the worker –
 - (a) is first diagnosed as suffering from the disease; or
 - (b) becomes partially or totally incapacitated by reason of the disease; or
 - (c) dies by reason of the disease –whichever occurs first.
- (6) Subsection (1)(d) does not apply in relation to a worker if the worker began employment as a career fire-fighter before 1 July 1998.
- (7) The Minister, by order, may amend Schedule 5 by –
 - (a) varying or rescinding any matter set out in the Schedule; or
 - (b) adding a disease and a period to the Schedule.

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(8) In this section –

avoidable call-out means an incident that is –

- (a) recorded in accordance with the system for recording incidents that is approved by the Chief Officer; and
- (b) recorded, in accordance with such a system, as –
 - (i) a false alarm; or
 - (ii) a false call; or
 - (iii) a good intent call; or
 - (iv) within a class of incidents, approved by the Chief Officer for the purposes of this subparagraph, being incidents of a type in respect of which a career fire-fighter would not conduct fire-fighting operations;

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career fire-fighter means a worker who –

- (a) is appointed or employed in accordance with section 24 of the *Fire Service Act 1979*; and
- (b) who occupies, or has occupied, during such an appointment or employment (whether or not for the whole period of such appointment or employment), a position classified as a “fire-fighter”, “station officer” or “district officer” under the industrial award that relates from time to time to persons carrying out fire-fighting operations;

Chief Officer has the same meaning as it has in the *Fire Service Act 1979*;

fire-fighter means –

- (a) a career fire-fighter; and
- (b) a volunteer fire-fighter;

fire-fighting operations –

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(a) in relation to a volunteer fire-fighter, has the same meaning as it has in section 5(3) and as if a reference in section 5(3) to training included any meeting, competition, or demonstration, related to the prevention, control or extinguishment of fires;
or

(b) in relation to a career fire-fighter, has the same meaning as it has in the *Fire Service Act 1979*;

fire prevention operations has the same meaning as it has in section 5(3) and as if a reference in section 5(3) to training included any meeting, competition, or demonstration, related to the prevention, control or extinguishment of fires;

volunteer fire-fighter means a person who, otherwise than under a contract for services, a contract of service, or a training agreement, with –

(a) the Secretary of the responsible Department in

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relation to the *Fire
Service Act 1979*; or

(b) the State Fire
Commission; or

(c) any brigade within the
meaning of the *Fire
Service Act 1979* –

engages in fire-fighting
operations, or fire prevention
operations, with the consent of,
under the authority of, or in co-
operation with, a person or body
referred to paragraph (a), (b) or
(c).

28. Review of operation of section 27

- (1) The Minister must cause a review of the operation of section 27 to be undertaken and completed by the end of the 12-month period from the commencement of this section.
- (2) The person who undertakes the review must provide a written report of the review to the Minister as soon as practicable after the review is completed.
- (3) The Minister must cause the written report of the review to be laid before each House of Parliament within 10 sitting-days after the report is provided to the Minister.

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5. Schedule 5 inserted

After Schedule 4 to the Principal Act, the following Schedule is inserted:

SCHEDULE 5 – DISEASES, OF FIRE-FIGHTERS, IN RESPECT OF WHICH THERE IS PRESUMPTION OF CAUSE

Section 27

Column 1	Column 2
Description of Disease	Qualifying Period
1. Primary site brain cancer	5 years
2. Primary site bladder cancer	15 years
3. Primary site kidney cancer	15 years
4. Primary non-Hodgkins lymphoma	15 years
5. Primary leukemia	5 years
6. Primary site breast cancer	10 years
7. Primary site testicular cancer	10 years
8. Multiple myeloma	15 years
9. Primary site prostate cancer	15 years
10. Primary site ureter cancer	15 years
11. Primary site colorectal cancer	15 years

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Column 1	Column 2
Description of Disease	Qualifying Period
12. Primary site oesophageal cancer	25 years
13. A disease prescribed for the purposes of this Schedule	The period prescribed for such a disease for the purposes of this Schedule

6. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.