

TASMANIA

---

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

---

**CONTENTS**

1. Short title
2. Commencement
3. Principal Act
4. Sections 27 and 28 inserted
  27. Presumption as to cause of certain diseases in relation to fire-fighters
  28. Review of operation of section 27
5. Schedule 5 inserted
  - Schedule 5 – Diseases, of Fire-fighters, in Respect of Which There is Presumption of Cause
6. Repeal of Act



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

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*  
20 August 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.

*Workers Rehabilitation and Compensation Amendment (Fire-  
fighters) Act 2013*  
*Act No. of*

s. 3

---

**3. Principal Act**

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

**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

---

\*No. 4 of 1988

*Workers Rehabilitation and Compensation Amendment (Fire-  
fighters) Act 2013*  
*Act No. of*

s. 4

---

- (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
- (d) if the worker is a worker to whom subsection (6) applies and 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 260 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

*Workers Rehabilitation and Compensation Amendment (Fire-  
fighters) Act 2013*  
*Act No. of*

s. 4

---

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 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.

*Workers Rehabilitation and Compensation Amendment (Fire-  
fighters) Act 2013*  
*Act No. of*

s. 4

---

- (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
  - (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) This subsection applies to a worker if –

*Workers Rehabilitation and Compensation Amendment (Fire-  
fighters) Act 2013*  
*Act No. of*

s. 4

---

- (a) the worker is a volunteer fire-fighter for all of the period specified in column 2 of Schedule 5 opposite the disease; or
  - (b) both of the following apply in relation to the worker:
    - (i) the worker is a volunteer fire-fighter for part of the period, specified in column 2 of Schedule 5 opposite the disease and a career fire-fighter for another part of the period;
    - (ii) the requirements of subsection (1)(c) cannot be satisfied by the worker without taking into account a period in which the worker is a volunteer fire-fighter.
- (7) The regulations 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.
- (8) In this section –



*Workers Rehabilitation and Compensation Amendment (Fire-  
fighters) Act 2013*  
*Act No. of*

s. 4

---

***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;

***career fire-fighter*** means a worker  
who –

*Workers Rehabilitation and Compensation Amendment (Fire-  
fighters) Act 2013*  
*Act No. of*

s. 4

---

- (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”, “senior 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*** –

- (a) in relation to a volunteer fire-fighter, has the same meaning as it has in

*Workers Rehabilitation and Compensation Amendment (Fire-  
fighters) Act 2013*  
*Act No. of*

s. 4

---

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 relation to the *Fire Service Act 1979*; or

*Workers Rehabilitation and Compensation Amendment (Fire-  
fighters) Act 2013*  
*Act No. of*

s. 4

---

(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 as soon as practicable after the end of –
  - (a) the 12-month period from the commencement of this section; and
  - (b) each 12-month period after the completion of each previous review of the operation of section 27.
- (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.

*Workers Rehabilitation and Compensation Amendment (Fire-fighters) Act 2013*  
*Act No. of*

s. 5

- (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.

**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

*Workers Rehabilitation and Compensation Amendment (Fire-  
fighters) Act 2013*  
*Act No. of*

s. 6

---

<b>Column 1</b>	<b>Column 2</b>
<b>Description of Disease</b>	<b>Qualifying Period</b>
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
12. Primary site oesophageal cancer	25 years

**6. Repeal of Act**

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