

FACT SHEET

Workers Rehabilitation and Compensation Amendment (Fire-Fighters) Bill 2013

The *Workers Rehabilitation and Compensation Amendment (Fire-Fighters) Bill 2012* (the Bill) proposes amendments to the *Workers Rehabilitation and Compensation Act 1988* (the Act) to establish a rebuttable presumption that particular forms of cancer developed by career and volunteer fire-fighters are work related for the purpose of workers compensation. The Bill will make the process of claiming workers' compensation less cumbersome for fire-fighters, and recognises that fire-fighters generally are at greater risk of developing certain types of cancers as a result of exposure to hazardous substances while attending fire fighting activities.

Under the presumption, if a fire-fighter has one of the twelve cancers listed in the Bill, and has served as a fire-fighter for the relevant qualifying period, and had the relevant number of exposures events during that period, it will be presumed that the cancer is an occupational disease and is therefore compensable.

The cancers specified in the Bill are the same twelve cancers covered by the *Safety, Rehabilitation and Compensation Act* of the Commonwealth. The qualifying periods are determined by the type of cancer which is suffered. For instance, in the case of primary leukaemia, the qualifying period is 5 years. In the case of primary site oesophageal cancer, the qualifying period is 25 years, and so on. The qualifying periods mirror the qualifying periods in the Commonwealth Act.

The relevant number of exposure events is 520 exposures over any 10 year period of employment, or 260 exposure events over any 5 year period of employment in the case of primary site brain cancer and primary leukaemia. This feature is unique

to the Bill and is not a requirement under the Commonwealth legislation. The Bill defines an exposure event as an event that the worker attends as a fire-fighter at an incident (other than an avoidable call-out) which is recorded in the approved incident recording system.

The requirement for exposure events does not extend to career fire-fighters who commenced employment prior to 1 July 1998, because incident exposure data was not available prior to that date.

The Bill also limits the presumption to diseases which have occurred during a period of employment as a fire-fighter, or 10 years post retirement or resignation from employment as a fire-fighter. In contrast, the Commonwealth model has no limits on the presumption applying post retirement. The 10 year limit has been included as it is seen as an appropriate compromise and will ensure that the presumption is applied in a fair but cost effective manner.

In order to make this presumption work as intended, the Bill clarifies that for the purpose of the presumption, where a worker suffers from the disease, the disease is taken to have occurred on the day they are either first diagnosed, become incapacitated or die because of the disease, whichever occurs first. This is needed because it is necessary to determine that the disease occurred during a period of employment as a fire-fighter, or within 10 years after the worker ceases employment as a fire-fighter.

The presumption proposed by the Bill will only apply to career and volunteer fire-fighters appointed or employed under the *Fire Service Act*, and will not have retrospective application. It will not apply where compensation is not payable under section 25(2) of the *Workers Rehabilitation and Compensation Act*. This means compensation will not be payable where a worker willfully and falsely represented himself in writing as not having

previously suffered from the disease at the time of entering his employment.

A mechanism which requires that a review as to the operation of the legislation be completed by the end of 12 months after commencement has been included in the Bill. This will provide an opportunity to assess the general effectiveness of the section as well as to review any developments in medical research.