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Specified Cancers Contracted by Firefighters

Fact Sheet

The *Workers' Compensation and Injury Management Act 1981* provides for a rebuttable presumption that benefits former and current State employed firefighters who contract cancer performing firefighting duties

Effective 21 January 2017

1. Overview

- Amendments to the Act made in 2013 and 2016 remove legal barriers for State employed firefighters claiming workers' compensation entitlements who contract one of 12 specified cancers.
- The legislation provides for a rebuttable presumption in favour of firefighters and shifts the burden of proof regarding the cause of the cancer from the cancer sufferer to their employer or the employer's insurer. It will still be open to the employer or insurer to rebut the presumption if it can be proven by them that the firefighter contracted the cancer in some other way.
- The amendments do not affect existing compensation entitlements of firefighters under the *Workers' Compensation and Injury Management Act 1981*.

2. Which cancers are covered?

- Table 1 identifies the twelve types of primary site cancer covered by the presumption and accompanying qualifying periods of service.

Table 1

Item	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-Hodgkin's lymphoma	15 years
5	Primary leukaemia	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	15 years
12	Primary site oesophageal cancer	25 years

3. Commencement and application

- The presumption only applies where:
 - a) the '*date of injury*' is on or after **13 November 2013**;
 - b) as at the '*date of injury*' the worker is or has been in '*firefighting employment*';
 - c) the criteria outlined below is satisfied.
- The '*date of injury*' is defined as either the day on which the worker is first diagnosed by a medical practitioner as having contracted the disease or the day on which the worker becomes totally or partially incapacitated for work, whichever is the earlier. In most situations the date of injury is likely to be the date of diagnosis.

- The term *'firefighting employment'* means employment by or under the Crown in right of the State, a substantial part of the duties of which consists of firefighting duties which —
 - a) is covered by an industrial award or industrial agreement applicable to firefighting; or
 - b) is prescribed to be firefighting employment for the purposes of the Act.
- This generally applies to career firefighters employed by the Department of Fire and Emergency Services as well as certain firefighters employed by the Department of Parks and Wildlife and Forest Products Commission.

4. What criteria apply?

- If the following conditions are met the cancer is taken to have arisen from employment as a firefighter, unless the employer proves the contrary:
 1. One of the 12 specified cancers is contracted;
 2. As at the date of injury the worker is or has been in *'firefighting employment'* (defined above) for a period of, or periods in aggregate amounting to at least, the qualifying period for the applicable cancer (qualifying periods range from 5 to 25 years);
 3. The worker has been exposed to the hazards of a fire scene on the basis of the employer being satisfied that the worker has completed one or more periods of *'hazardous firefighting employment'* for at least the lesser of —
 - a) 5 years; and
 - b) the qualifying period.
- In relation to point (3) above, firefighters employed as members or officers of a permanent fire brigade as defined in the *Fire Brigades Act 1942* are taken to have completed the periods of *'hazardous firefighting employment'* whilst employed as a permanent officer or member (e.g. firefighters employed by the Department of Fire and Emergency Services).
- In relation to point (3) above other State employed firefighters (e.g. employed by Department of Parks and Wildlife or Forest Products Commission) are taken to have completed the period(s) of *'hazardous firefighting employment'* if the worker has attended at least five *'hazardous fires'* per year averaged over five years or the qualifying period (whichever is lesser). A *'hazardous fire'* means —
 - a) a fire in a building; or
 - b) a fire in a vehicle, whether designed to move under its own power or to be towed and whether or not still moveable; or
 - c) a fire involving non-organic refuse or rubbish created by humans; or
 - d) a fire that is prescribed to be a hazardous fire