

tabled by
Hon. J. Goodwin MLC
23/6/15

TABLED 23/6/15



RESPONSE TO PETITION

Petition – Workers Rehabilitation and Compensation Amendment (Fire Fighters) legislation (Ivan Dean, 19 March 2015)

To the Honourable President and Members of the Legislative Council, in Parliament assembled.

The petition of the undersigned

- Citizens of Tasmania; and Tasmanian Volunteer and Retained Fire fighters.

That your Petitioners are concerned that the current construction of the Workers Rehabilitation and Compensation Amendment (Fire-Fighters) legislation in drawing a distinction between career firefighters and volunteer and retained firefighters is both unfair and discriminatory.

And your Petitioners request that the Legislative Council use the forms of the Parliament to review the number of 'exposures; to ensure equality for all Firefighters – career, volunteer and retained firefighters.

Government Response:

The Workers Rehabilitation and Compensation Amendment (Fire-fighters) legislation was passed by both Houses of Parliament in 2013, and began for fire-fighters on 21 October 2013.

The amendment established 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 amendment was intended to 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 undertaking fire fighting activities.

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

The relevant number of exposure events is 150 exposures over any ten-year period of employment, or 150 exposure events over any five-year period of employment in the case of primary site brain cancer and primary leukaemia.

Issue raised by petitioners:

The current construction of the Workers Rehabilitation and Compensation legislation draws a distinction between career fire-fighters and volunteer fire-fighters. It does this by requiring that volunteer fire-fighters must meet an additional threshold of having a certain number of exposure events. Career fire-fighters do not have to meet this threshold.

The relevant number of exposure events for volunteer fire-fighters is 150 exposures over any ten-year period of employment, or 150 exposure events over any five-year period of employment in the case of primary site brain cancer and primary leukaemia.

The rationale for the inclusion of this threshold is: first, to ensure that all fire-fighters are treated equitably; hence, volunteer fire-fighters should be covered by the presumptive legislation; and second, the service of volunteer fire-fighters should be compared to that of career fire-fighters. With the exception of a very small number of volunteer fire-fighters, it is widely recognised that most career fire-fighters attend more fires more regularly than volunteer fire-fighters and are potentially exposed to more carcinogens through fire fighting activities. Statistics from the Tasmania Fire Service were used to identify the number of incidents an active career fire-fighter with ten years or more of service would attend, on average. The average incident attendance identified was 26 incidents per annum or 260 incidents over a ten-year period. The threshold in the legislation was set much lower than this for the majority of cancers listed.

It must also be remembered that many volunteer fire-fighters also pursue other occupations and activities that may expose them to carcinogens and, hence, the connection with the number of exposure events is a necessary element in determining the validity of any claim in applying the presumption. In addition, some volunteer brigades are more active than others and the types of fires attended also vary. Added to this is that some members are more readily available for callouts than other members, so there is a contingent that would be less exposed to risk. These issues were considered when it was recommended that there was a need to determine exposure events, rather than just rely on length of service for volunteer fire-fighters.

Review of section 27 - presumptive coverage of certain diseases for fire-fighters

Certain provisions in the *Workers Rehabilitation and Compensation Act 1998* (the Act) trigger a review of other provisions within the Act. Section 28 requires that a review is to be conducted of the operation of section 27 of the Act after 12 months.

The WorkCover Tasmania Board engaged Finity Consulting Pty Ltd to conduct a review of various amendments to the Act, including section 27.

Finity Consulting reviewed the claims experience of fire-fighters, the cancers covered by the legislation, the Tasmanian Fire Service incident recording system and the volunteer fire-fighter threshold.

As part of their review, Finity Consulting analysed the results of the *Australian Firefighters Health Study*; a study conducted by Monash University which examined the incidence of cancer in the fire-fighter population relative to the general population. The study included full time and part time career fire-fighters and volunteers.

The study found:

- Overall cancer incidence for male career fire-fighters (both full and part time) was significantly higher compared to the Australian population. This is driven by a higher incidence of prostate cancer and melanoma.

- Overall cancer incidence for male volunteer fire-fighters was no different to the Australian population.
- Cancer incidence increases with increasing attendance at vehicle fires.

Finity Consulting concluded that the findings of the study “*lend support to the current scheme design whereby there is a threshold for incident attendances for volunteers before presumption is granted.*”

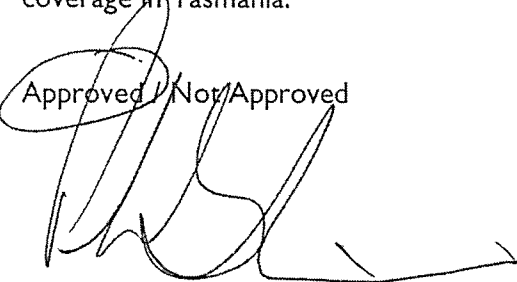
With regard to the provisions of the Act that were reviewed, including section 27, Finity Consulting concluded that “*we do not believe there is any evidence to suggest that any amendments to the Act are necessary at this time.*”

Comparison to other states

Rather than discriminate against volunteer fire-fighters, the objective of the amendment to the Tasmanian legislation was to treat them equitably by including them. The legislation provides a balance between those who are career fire-fighters and those who serve as volunteer fire-fighters.

The latest developments in presumptive legislation for fire-fighters in other jurisdictions, suggests that those jurisdictions are still keenly watching what happens with the volunteer coverage in Tasmania.

Approved / ~~Not~~ / Approved



Peter Gutwein MP
Treasurer

Date: 2 June 2015