

South Australia

Workers Rehabilitation and Compensation (Firefighters) Amendment Act 2013

An Act to amend the *Workers Rehabilitation and Compensation Act 1986*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Workers Rehabilitation and Compensation Act 1986*

- 4 Amendment of section 31—Evidentiary provision
- 5 Insertion of Schedule 2A
Schedule 2A—Injuries presumed to arise from employment as a firefighter

Schedule 1—Review of amendments

- 1 Review
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

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

2—Commencement

This Act will come into operation on 1 July 2013 (and if this Act is not assented to until after that date, it will be taken to have come into operation on that date).

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Workers Rehabilitation and Compensation Act 1986*

4—Amendment of section 31—Evidentiary provision

- (1) Section 31(1)—delete "An injury" and substitute:

Subject to this section, an injury

- (2) Section 31(2)—delete "However, if" and substitute:

If

- (3) Section 31—after subsection (2) insert:

(2a) If—

- (a) a worker suffers an injury of a kind referred to in the first column of Schedule 2A; and
- (b) the injury occurred on or after 1 July 2013; and
- (c) before the injury occurred, the worker was employed by the South Australian Metropolitan Fire Service (*SAMFS*) as a firefighter for the qualifying period referred to in the second column of Schedule 2A opposite the injury; and
- (d) during that period, the worker was exposed to the hazards of a fire scene (including exposure to a hazard of the fire that occurred away from the scene),

the worker's injury is presumed, in the absence of proof to the contrary, to have arisen from employment by *SAMFS*.

(2b) If—

- (a) a worker suffers an injury of a kind referred to in the first column of Schedule 2A; and
- (b) the injury occurred on or after 1 July 2013; and
- (c) before the injury occurred, the worker was presumptively employed by the Crown as a firefighter for the qualifying period referred to in the second column of Schedule 2A; and
- (d) the worker was exposed to the hazards of a fire scene (including exposure to a hazard that occurred away from the scene) at least 175 times in any 5 year period during that employment,

the worker's injury is presumed, in the absence of proof to the contrary, to have arisen from his or her presumptive employment by the Crown.

- (4) Section 31(3)—delete subsection (3) and substitute:
- (3) A regulation made on the recommendation, or with the approval, of the Corporation or the Advisory Committee may—
 - (a) extend the operation of subsection (2) to injuries and types of work prescribed in the regulation;
 - (b) extend the operation of subsections (2a) and (2b) to an injury and corresponding qualifying period prescribed in the regulation.
- (5) Section 31—after subsection (4) insert:
- (4a) For the purposes of subsection (2a)—
 - (a) a worker is taken to have been employed as a firefighter if fire-fighting duties made up a substantial portion of his or her duties; and
 - (b) a worker who was so employed or engaged for 2 or more periods that add up to or exceed the qualifying period is taken to have been employed or engaged for the qualifying period; and
 - (c) the qualifying period may include a period or periods that commenced or occurred before 1 July 2013.
 - (4b) For the purposes of subsection (2b)—
 - (a) a worker is taken to have been presumptively employed by the Crown as a firefighter if the Crown was his or her presumptive employer under section 103A because he or she was a member of the South Australian Country Fire Service and voluntarily performed firefighting work in connection with that membership; and
 - (b) a person performs firefighting work if he or she engages in activity directed towards preventing, controlling or extinguishing a fire; and
 - (c) all of the attendances as a firefighter by a worker at any 1 fire scene on a particular day are to be taken to comprise 1 exposure to the hazards of a fire scene; and
 - (d) a worker who was employed for 2 or more periods that add up to or exceed the qualifying period is taken to have been employed for the qualifying period; and
 - (e) the qualifying period may include a period or periods that commenced or occurred before 1 July 2013.

5—Insertion of Schedule 2A

After Schedule 2 insert:

Schedule 2A—Injuries presumed to arise from employment as a firefighter

Description of injury	Qualifying period
Primary site brain cancer	5 years
Primary site bladder cancer	15 years
Primary site kidney cancer	15 years
Primary non-Hodgkins lymphoma	15 years
Primary leukemia	5 years
Primary site breast cancer	10 years
Primary site testicular cancer	10 years
Multiple myeloma	15 years
Primary site prostate cancer	15 years
Primary site ureter cancer	15 years
Primary site colorectal cancer	15 years
Primary site oesophageal cancer	25 years

Schedule 1—Review of amendments

1—Review

- (1) The Minister must, as soon as possible following the fifth anniversary of the commencement of this clause, appoint an independent person to carry out a review concerning the operation and impact of the amendments made by this Act.
- (2) The person appointed by the Minister under subclause (1) must present to the Minister a report on the outcome of the review no later than 4 months following his or her appointment.
- (3) The Minister must, within 6 sitting days after receiving the report, have copies of the report laid before both Houses of Parliament.
- (4) In this clause—

Minister means the Minister to whom the administration of the *Workers Rehabilitation and Compensation Act 1986* is committed.