



ACT
Government

Chief Minister and Cabinet

The Committee Secretary
Senate Standing Committees on Education, Employment and Workplace Relations
Parliament House
CANBERRA ACT 2600

Dear Secretary

Safety, Rehabilitation and Compensation amendment (Fair Protection for Firefighters) Bill 2011

Thank you for the opportunity to comment on the proposed legislation to amend provisions in the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) relating to occupational diseases and firefighters. I provide this Submission as Head of the ACT Public Service, on behalf of the ACT Government.

Workers' compensation schemes provide an important form of statutory insurance designed to protect and support workers who are injured in and out of the course of their employment.

The ACT Government notes that the coverage of this draft Bill includes firefighters engaged by the ACT Government, and the Commonwealth Government (including Air Services Australia), but does not extend to state fire brigades. While the ACT Government employs over 332 structural firefighters and 140 parks firefighters and has over 1500 volunteers that may be required to participate in firefighting activities (all whom are covered for compensation by the SRC Act), the ACT understands that this Bill is intended only to apply to structural firefighters. The Bill would benefit from further clarification in this area.

The ACT Government notes firefighters have been granted greater access to presumptions under workers' compensation law in North America since the late 1990s. Since that time there has been a considerable amount of research to determine the relationship between the occupation of firefighting and certain cancers.

In 2010 the World Health Organization International Agency for Research on Cancer (IARC) completed an extensive review of available literature and found there is *limited evidence* for the carcinogenicity of occupational exposure for firefighters and that occupational exposure as a firefighter is *possibly carcinogenic* to humans.¹

Other studies² have concluded that there is a *statistically significant higher* cancer risk for firefighters to contract a range of 10 out of 21 cancer types that were analysed. The lack of consensus among researchers and clinicians as to the causal link between firefighting and particular cancers poses particular challenges and dilemmas for this Bill.

Here in Australia, the ACT Fire Brigade has supported the Australasian Fire and Emergency Services Authorities Council (AFAC) longitudinal cohort study of firefighters being undertaken by Monash University. The study commenced in 2010 and it is expected to be some years before the results are available.

The policy intent of the Bill is clear – the support to workers injured in and out of the course of their employment is of paramount importance to all employers, workers and their representatives. It might be suggested that the obligations underpinning this intent are even clearer in relation to those occupations like firefighting where workers expose themselves to dangers in the protection of others from harm.

However, the SRC Act already provides presumptions for prescribed occupational diseases. That is, the disease is deemed to be work-related if the worker's employment involved exposure to certain chemicals, toxins and biological agents. The ACT notes that in 2010, the International Labour Organization (ILO) reviewed their list of occupational diseases to ensure the inclusion of a range of internationally recognised occupational diseases (including occupational cancers).

Rather than pursuing legislative amendment for compensation related to a sub-set of cancers in circumstances where the clinical evidence is inconclusive, the ACT Government suggests it would be preferable for consideration to be given to a review of the SRC Act's list of prescribed occupational diseases in light of the ILO convention.

Further, the ACT would prefer, and suggests, a nationally consistent approach be pursued to the recognition of occupational diseases through reference of the issues addressed in the Bill to Safe Work Australia.

¹ IARC *Monographs on the Evaluation of Carcinogenic Risks to Humans*, Volume 98 - Painting, Firefighting and Shiftwork.

² Howe & Burch, 1990; LeMasters et al 2006; Ma et al 2006; Bates 2007

Should the Bill be pursued in its current form, it is recommended that:

- a) the broader application to volunteer and rural fire fighters be considered following the conclusion of the AFAC and Monash University longitudinal study of firefighters;
- b) consideration be given to introducing rebuttal provisions consistent with those operating in the majority of jurisdictions in the US (pre-employment physical checks, annual physical checks and eligibility beyond cessation of employment); and
- c) consideration be given to aligning the qualifying periods to those in operation in the US and Canada.

Thank you for the opportunity to provide comments on the proposed legislation.

I look forward to hearing the outcomes of the Committee's deliberations.

Yours sincerely

Andrew Cappie-Wood

Head of Service

4th August 2011