

Appendix 4: Table 1 – Smoking and non-smoking firefighter presumption.

Jurisdiction	Relevant clause(s)	Provisions regarding smokers
Alberta	<p>Presumption re firefighters 24.1(1) In this section,</p> <p>(a) “full-time firefighter” means an employee, including an officer and a technician, employed by a municipality or Metis settlement and assigned exclusively to fire protection and fire prevention duties notwithstanding that those duties may include the performance of ambulance or rescue services;</p> <p>(b) “municipality” means a municipality as defined in the Municipal Government Act;</p> <p>(c) “part-time firefighter” means a casual, volunteer or part-time member of a fire protection service of a municipality or Metis settlement.</p> <p>(2) If a worker who is or has been a full-time firefighter or part-time firefighter suffers an injury that is a primary site cancer of a type specified in the regulations, the injury shall be presumed to be an occupational disease, the dominant cause of which is the employment as a full-time firefighter or part-time firefighter, unless the contrary is proven.</p> <p>(3) The presumption in subsection (2) applies only to a worker who has been a full-time firefighter or part-time firefighter for a minimum period prescribed by the Lieutenant Governor in Council by regulation and who has been regularly exposed to the hazards of a fire scene, other than a forest-fire scene, throughout that period.</p> <p>(4) The Lieutenant Governor in Council shall make regulations</p> <p>(a) designating primary site cancers to which the presumption in subsection (2) applies;</p> <p>(b) prescribing periods of employment for the purpose of subsection (3) which may be different for the different diseases designated under clause (a).</p> <p>(5) and (6) Repealed 2011 c17 s2.</p> <p>(7) If a worker who is a full-time firefighter or part-time firefighter suffers a myocardial infarction within 24 hours after attendance at an emergency response, the myocardial infarction shall be presumed to have arisen out of and occurred during the course of employment as a full-time firefighter or part-time firefighter unless the contrary is proven.</p>	<p>ALBERTA REGULATION 102/2003 Workers’ Compensation Act FIREFIGHTERS’ PRIMARY SITE CANCER REGULATION (b) “non-smoker” means an individual who has not smoked a tobacco product in the 10 years prior to the date of diagnosis of a primary site cancer.</p>
British Columbia	<p>Firefighters' occupational disease presumption 6.1 (1) In this section, "firefighter" means a member of a fire brigade who is</p> <p>(a) described by paragraph (c) of the definition of "worker", and</p> <p>(b) assigned primarily to fire suppression duties, whether or not those duties include the performance of ambulance or rescue services.</p> <p>(1.1) If a worker who is or has been a firefighter contracts primary site lung cancer, the disease must be presumed to be due to the nature of the worker's employment as a firefighter, unless the contrary is proved.</p> <p>(2) If a worker who is or has been a firefighter contracts a prescribed disease, the disease must be presumed to be due to the nature of the worker's employment as a firefighter, unless the contrary is proved.</p> <p>(3) The presumptions in subsections (1.1) and (2) apply only to a worker who</p> <p>(a) has worked as a firefighter for the minimum cumulative period prescribed for the disease, which minimum cumulative period may be defined differently, and be different, for different categories of firefighters,</p> <p>(b) throughout that period, has been regularly exposed to the hazards of a fire scene, other than a forest fire scene, and</p> <p>(c) is first disabled from the disease on or after the following date, as applicable:</p> <p>(i) in the case of a disease that, on or before the date this subparagraph comes into force, was prescribed by regulation for the purposes of subsection (2), April 11, 2005;</p> <p>(ii) in the case of primary site lung cancer, May 27, 2008;</p> <p>(iii) in the case of a disease that, after the date this subparagraph comes into force, is prescribed by regulation for the purposes of subsection (2), the date on which that regulation takes effect.</p>	<p>Minimum non-smoking periods prescribed for previous smokers 4 In the case of a worker who does not meet the requirement of 6.1 (3.1) (a) of the Act, the minimum period for the purposes of section 6.1 (3.1) (b) of the Act is prescribed as follows:</p> <p>(a) if the worker smoked cigarettes,</p> <p>(i) 6 consecutive years, if the worker smoked, on average, fewer than 7 cigarettes per week,</p> <p>(ii) 6 consecutive years, if the worker smoked, on average, 1 to 9 cigarettes per day,</p> <p>(iii) 13 consecutive years, if the worker smoked, on average, 10 to 19 cigarettes per day,</p> <p>(iv) 18 consecutive years, if the worker smoked, on average, 20 cigarettes per day,</p> <p>(v) 23 consecutive years, if the worker smoked, on average, 21 to 39 cigarettes per day, and</p> <p>(vi) 28 consecutive years, if the worker smoked, on average, 40 or more cigarettes per day;</p> <p>(b) 8 consecutive years, if the worker smoked, on average, one or more cigars or pipes per day but did not smoke cigarettes;</p> <p>(c) if the worker smoked cigarettes in combination with cigars or pipes, the periods prescribed in paragraph (a) apply with a cigar or pipe counting as a cigarette.</p>

Manitoba	<p>Presumption4(5) Where the accident arises out of the employment, unless the contrary is proven, it shall be presumed that it occurred in the course of the employment; and, where the accident occurs in the course of the employment, unless the contrary is proven, it shall be presumed that it arose out of the employment.4(5.1) In this section,"full-time firefighter" means a full-time member of a fire fighting department; "part-time firefighter" means a casual, volunteer or part-time member of a municipal fire brigade.Presumption re cancer and firefighters4(5.2) If a worker who is or has been a full-time firefighter or part-time firefighter suffers an injury that is[see table 1]the injury must be presumed to be an occupational disease the dominant cause of which is the employment as a firefighter, unless the contrary is proven.Application of presumption re cancer4(5.3) The presumption in subsection (5.2) applies to a worker(a) who has been employed as a full-time firefighter or part-time firefighter for a minimum period prescribed by the Lieutenant Governor in Council by regulation; and(b) who has been regularly exposed to the hazards of a fire scene, other than a forest-fire scene, throughout that period of employment.Additional requirement re lung cancer4(5.4) In addition to the requirements of subsection (5.3), the presumption for a primary site lung cancer applies only to a worker who has been a non-smoker immediately before the day of the accident for a minimum period of time prescribed by the Lieutenant Governor in Council by regulation.Effective date of presumption re cancer4(5.5) The presumption in subsection (5.2) applies to accidents that happen to(a) full-time firefighters on or after January 1, 1992; or(b) part-time firefighters on or after the day this subsection comes into force.4(5.7) The Lieutenant Governor in Council may make regulations(a) prescribing minimum periods of employment for the purpose of subsection (5.3), which may be(i) different for different diseases set out in subsection (5.2), and(ii) different for full-time firefighters and part-time firefighters;(b) prescribing the minimum period of time for which a worker must be a non-smoker for the purpose of subsection (5.4).</p>	<p>No minimum period as non-smoker applies 3(1) For the purpose of subsection 4(5.4) of the Act (additional requirement re lung cancer), where a worker has smoked, in the worker's lifetime,(a) less than 365 cigarettes; (b) less than 365 cigars; (c) less than 365 pipes; or (d) less than 365 cigarettes, cigars and pipes;there is no minimum period of time for which a worker must have been a non-smoker immediately before the day of the accident.Minimum period as non-smoker 3(2) Subject to subsection (1), the minimum period of time for which a worker has been a non-smoker(a) of cigarettes immediately before the day of the accident is the following:(b) of cigars or pipes immediately before the day of the accident is the following:Worker smoked cigarettes with cigars or pipes 3(3) Subject to subsection (1), if a worker has smoked cigarettes in combination with cigars or pipes, the minimum period of time is determined using the table in clause (2)(a).</p>
New Brunswick	<p>Complete Act - deals with compensation, injury, pensions and retirement</p>	
NW Territories	<p>14.1. (1) In this section, "firefighter" means a worker who (a) is engaged in fighting fires as a full-time, part-time or volunteer member of a fire department, and (b) does not exclusively fight forest fires "listed disease" means any of the following diseases: [see table 1] (2) Notwithstanding section 14 and subject to subsection (3), a listed disease is presumed to have arisen out of a worker's employment and to have occurred during the course of that employment if (a) the worker is disabled by the listed disease; and (b) the worker is or has been a firefighter for the minimum period of employment prescribed in the regulations. Exceptions (3) cancer, the presumption referred to in subsection (2) does not apply unless the worker has been a non-smoker before the date of the disability for the minimum period prescribed in the regulations.</p>	<p>2. The minimum period the firefighter has been a non-smoker before the date of the disability referred to in subsection 14.1(3) of the Act is (a) none if the firefighter has smoked, in his or her lifetime (i) less than 360 cigarettes, (ii) less than 360 cigars, (iii) less than 360 pipes, or (iv) less than 360 cigarettes, cigars and pipes; (b) none if the firefighter has smoked on average less than seven cigars or pipes per week; (c) in the case of cigarettes (i) six years if the firefighter smoked on average less than seven per week, (ii) six years if the firefighter smoked on average one to nine per day, (iii) 13 years if the firefighter smoked on average 10 to 19 per day, (iv) 18 years if the firefighter smoked on average 20 per day, (v) 23 years if the firefighter smoked on average 21 to 39 per day, and (vi) 28 years if the firefighter smoked on average 40 or more per day; (d) in the case of cigars or pipes, eight years if the firefighter smoked on average one or more than one per day; and (e) if the firefighter smoked cigarettes in combination with cigars or pipes, the minimum period determined in accordance with paragraph (c) with a cigar or a pipe counting as a cigarette.</p>

Nova Scotia	<p>Presumption respecting firefighter 35A (1) In this Section, "firefighter" means an employee, including officers and technicians, employed by a municipality and assigned exclusively to fire protection and fire prevention duties notwithstanding that those duties may include the performance of ambulance or rescue services, and includes a member of a volunteer fire department who performs those duties.(2) Where a worker who is or has been a firefighter suffers an accident that is a cancer or other disease that is prescribed by the Governor in Council by regulation, the accident is presumed to be an occupational disease, the dominant cause of which is the employment as a firefighter, unless the contrary is proven.(3) The presumption in subsection (2) applies only to a worker who has been a member of a fire protection service of a municipality or a volunteer fire department for a minimum period prescribed by the Governor in Council by regulation and who has been regularly exposed to the hazards of a fire scene, other than a forest-fire scene, throughout that period.(4) The presumption in subsection (2) applies to accidents that happen on or after January 1, 1993.(5) The Governor in Council may make regulations(a) prescribing diseases for the purpose of subsection (2);(b) prescribing periods of employment or volunteer work for the purpose of subsection (3), and may prescribe different periods for different diseases prescribed for the purpose of subsection (2).(6) The exercise by the Governor in Council of the authority contained in subsection (5) is regulations within the meaning of the Regulations Act.(7) Subsection 83(2) does not apply with respect to a firefighter who learned before this Section came into force that the firefighter suffered from a disease prescribed pursuant to this Section.(8) For greater certainty, compensation payable for the period before this Section came into force shall be calculated in accordance with this Part and not in accordance with the former Act. 2003, c. 5, s. 2.made under subsection 35A(5) of the Workers' Compensation Act</p>	
Ontario	<p>Occupational disease  (4) If a worker is prescribed under clause (8) (a) and suffers from and is impaired by a disease prescribed under clause (8) (d), the disease is presumed to be an occupational disease that occurs due to nature of the worker's employment as a firefighter or fire investigator, unless the contrary is shown  Time of diagnosis  (5) The presumption in subsection (4) applies only to diseases diagnosed on or after January 1, 1960.  Diseases diagnosed before 1998  (6) Where the presumption in subsection (4) applies in relation to a disease of a worker that is diagnosed before January 1, 1998, the rights of the worker or his or her survivor shall, subject to the presumption, be determined in accordance with Part IX.  Conditions and restrictions  (7) The presumptions in subsections (1) and (4) are subject to any conditions and restrictions prescribed under clause (8) (e).  Definitions  1. In this Regulation,  "firefighter" has the same meaning as in subsection 1 (1) of the Fire Protection and Prevention Act, 1997;  ("pompier")  "fire investigator" means,  (a) a worker to whom the Fire Marshal appointed under subsection 8 (1) of the Fire Protection and Prevention Act, 1997 has delegated the duty to investigate the cause, origin and circumstances of a fire, or  (b) a worker who was an inspector appointed under subsection 2 (4) of the Fire Marshals Act before that Act was repealed by the Fire Protection and Prevention Act, 1997; ("enquêteur sur les incendies")  "full-time firefighter" means a worker who is a firefighter, is regularly employed on a salaried basis and is scheduled to work an average of 35 hours or more per week; ("pompier à temps plein")  "part-time firefighter" means a worker who is a firefighter and is not a volunteer firefighter or full-time firefighter. ("pompier à temps partiel") O. Reg. 423/09, s. 1.  Prescribed classes  2. The following are prescribed as workers for the purposes of subsections 15.1 (1) and (4) of the Act:  1. Full-time firefighters.  2. Part-time firefighters.  3. Volunteer firefighters.  4. Fire investigators. O. Reg. 423/09, s. 1.  Prescribed circumstances  3. For the purposes of subsection 15.1 (1) of the Act, the worker must have sustained the heart injury while, or within 24 hours of,  (a) attending a fire scene in the performance of his or her duties as a full-time firefighter, part-time firefighter, volunteer firefighter or fire investigator; or  (b) actively participating in a training exercise that is related to his or her duties as a full-time firefighter, part-time firefighter, volunteer firefighter or fire investigator and that involves a simulated fire emergency.</p>	

Saskatchewan	<p>WORKERS' COMPENSATION c. W-17.1  Presumption of certain occupational diseases re fire fighters  29.1(1) In this section and in section 181:  (a) "fire department" means a fire department as defined in The Fire Prevention Act, 1992;  (3)The presumption mentioned in subsection (2) applies:  (b)"listed disease" means:  (2) listed disease, that disease is presumed to be an occupational disease, the dominant cause of which is the employment as a fire fighter, unless the contrary is shown.  Subject to subsection (3),  (i) has been a full-time member of a fire department for the minimum period of employment prescribed in the regulations; and  (ii) has been regularly exposed to the hazards of a fire scene, other than a forest fire scene, throughout the period mentioned in subclause (i); and  (b) non-smoker before the date of injury for the minimum period prescribed in the regulations.</p>	
Yukon	<p>ACT TO AMEND THE WORKERS' COMPENSATION ACT  (Assented to March 28, 2011)  New presumption added for firefighters  2 The following section is section 17  "Presumption for firefighters  17.1(1) In this section added after "firefighter" means a worker who is a full- time firefighter or is included in this definition by another provision of this Act, but does not include a worker who exclusively fights forest fires; « pompier »  "full-time firefighter" means  (a) a worker who is engaged in firefighting, fire inspection or fire investigation as a full-time member of a fire department or fire brigade, and  (b) the fire marshal, and each deputy fire marshal, appointed under the Fire Prevention Act;</p>	(b) non-smoker before the date of injury for the minimum period prescribed in the regulations.

Appendix 5: Table 2 – Jurisdictional survey, Canadian provinces: recognition of firefighter cancers by cancer and qualifying period.

	<b>Alberta<sup>1</sup></b>	<b>Ontario</b>	<b>British Colombia</b>	<b>Saskatchewan</b>	<b>Manitoba</b>	<b>Nova Scotia</b>	<b>Yukon<sup>2</sup></b>	<b>NW Territories</b>	<b>N Brunswick</b>
Oesophageal cancer	Yes -25 years	Yes -25 years			Yes - 25 years		Yes		
<b>Kidney cancer</b>	Yes -20 years	Yes -20 years	Yes -20 years	Yes	Yes - 20 years	Yes - 20 years	Yes		Yes - 20 years
Colorectal cancer	Yes -20 years	Yes - 10 years <sup>3</sup>	Yes - 20 years	Yes	Yes - 15 years	Yes - 20 years	Yes	Yes -15 years	Yes - 20 years
Ureter cancer	Yes -15 years	Yes -15 years	Yes - 15 years	Yes	Yes - 15 years		Yes		Yes - 15 years
<b>Leukaemia<sup>4</sup></b>	Yes - 5 years	Yes - 15 years	Yes - 5 years	Yes	Yes - 5 years	Yes - 5 years	Yes	Yes - 5 years	Yes - 5 years
<b>Testicular cancer</b>	Yes - 20 years		Yes - 20 years	Yes	Yes - 10 years		Yes	Yes - 20 years	Yes - 20 years
<b>Non--Hodgkin's lymphoma</b>	Yes - 20 years	Yes - 20 years	Yes - 20 years	Yes	Yes - 20 years	Yes - 20 years	Yes	Yes - 20 years	Yes - 20 years
<b>Bladder cancer</b>	Yes - 15 years	Yes - 15 years	Yes - 15 years	Yes	Yes - 15 years	Yes - 15 years	Yes		Yes - 15 years
Lung cancer	Yes - 15 years		Yes - 15 years <sup>5</sup>	Yes	Yes - 15 years		Yes	Yes - 15 years	Yes - 15 years
Prostate cancer	Yes - 15 years				Yes – 15 years			Yes - 15 years	
Skin cancer	Yes - 15 years				Yes – 15 years			Yes - 15 years	
Multiple myeloma	Yes - 15 years				Yes – 15 years			Yes - 15 years	
<b>Brain cancer</b>	Yes - 10 years	Yes - 10 years	Yes - 10 years	Yes	Yes- 10 years	Yes - 10 years	Yes	Yes - 10 years	Yes - 10 years
<b>Breast cancer</b>	Yes - 10 years				Yes – 10 years				

<sup>1</sup> Alberta distinguishes primary-site cancers, as do British Colombia, the NW Territories and Manitoba.

<sup>2</sup> Yukon legislation is operative from 1 July 2011, and qualifying periods are yet to be set by regulation.

<sup>3</sup> Where the firefighter is diagnosed prior to their 61<sup>st</sup> birthday.

<sup>4</sup> Ontario further defines types of leukemia - myeloid, chronic lymphocytic, and primary acute lymphocytic.

<sup>5</sup> British Colombia's legislation includes a requirement of a minimum non-smoking period, as does Alberta, Manitoba, the NW Territories, and Saskatchewan.

Appendix 6: Table 3 – Jurisdictional survey, Canadian provinces: legislative mechanism for recognition of firefighter illness, year of implementation and retroactivity.

Jurisdiction	Legislation	Year	Fulltime / part time / volunteer firefighters covered?	retroactive <sup>6</sup>
Alberta	Workers Compensation Act 2000 – amended by Firefighter’s Primary Site Cancer Regulation 102/2003	2003	Yes	No
British Columbia	Workers Compensation Act [RSBC 1996] 125/2009 -: Firefighters Occupational Disease Regulation	2005	Yes	No
Manitoba	Workers Compensation Act [RSM 1987 W200]	2002, amended 2005	Yes	No
New Brunswick	Firefighters Compensation Act O.C 2009-289	2007, amended 2009	Yes	
Newfoundland				
Northwest Territories	Workers Compensation Act Firefighters Presumption Regulations R-039-2010		Yes	
Nova Scotia	Workers Compensation Act S.N.S 1994-95 [OIC 2003-241, Reg. 140/2003]	2003	Yes	Yes
Ontario	Workplace Safety and Insurance Act 1997, incl. O. Reg 253/07: Firefighters	2007	Yes	Yes
Price Edward Island				
Quebec				
Saskatchewan	Workers Compensation Act 1979	2003, amended 2006	Fulltime only	No
Yukon	Workers Compensation Act 2008	2011	Yes – the only Canadian jurisdiction to include ‘wildland’ (bush) volunteers <sup>7</sup>	Has application from July 1 2011

<sup>6</sup> <http://www.labour.gov.on.ca/english/hs/pubs/firefighters/tab1.php>

<sup>7</sup> <http://www.wcb.yk.ca/Media/documents/FFNewsReleaseFINALMarch24-11.pdf> - Saskatchewan and Manitoba specifically exclude those who fight forest fires.