

United Firefighters' Union of Australia, Union of Employees, Queensland (UFUQ)



**Additional submission regarding the
Workers' Compensation and Rehabilitation
and Other Legislation Amendment Bill 2020**

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Contact:

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The UFUQ provides the following submission to the Education, Employment and Training Committee (the Committee) in addition to our submission to the former Education, Employment and Small Business Committee dated 24 September 2020 –

10. We seek the Committee's consideration of additional amendments to the *Workers' Compensation and Rehabilitation Act 2003* (the Act)

Given the Bill proposes amendments to the Act, the UFUQ wish to draw the Committee's attention to two other matters that, in our view, required amendment.

Both matters relate to existing provisions that apply exclusively to firefighters.

11. Proposed amendment to section 36E(2) of the Act

Recently, WorkCover Queensland (WCQ) decided that a professional firefighter (and UFUQ member) with more than 10 years' service did not qualify for a presumption of injury claim for primary site breast cancer because she was on a period of paid leave (maternity, annual and then long service) for just over 13 months to give birth to and care for her child.

The UFUQ were advised by WCQ that the circumstances caused them to consider the interpretation of section 36E of the Act and conclude "*that where a worker had been absent from service for in excess of 12 months on leave, that it could not be included in the calculation of years of service. This could be maternity leave or any other type of extended leave*".

The Act does not explicitly address the issue of leave that is accrued appropriately and taken as authorised.

Our member was clearly employed for the purpose of firefighting. The controversy concerned her actual attendance at fires to the extent reasonably necessary to fulfil the purpose of her employment.

In our view, it is not reasonably (or at all) necessary for a firefighter to attend fires whilst on a period of authorised paid leave. Therefore, a firefighter who is on authorised paid leave and, as a consequence, does not attend any fires, has still attended to the 'extent reasonably necessary'.

We firmly believe our member satisfied the requirements of section 36E(2) of the Act. However, as a consequence of WCQ's interpretation, our member was subject to an overwhelming and unnecessarily lengthy claim determination process, including a requirement to attend an independent medical examination and obtain relevant evidence to demonstrate that her employment as a firefighter was a significant contributing factor to her diagnosis, whilst she was in the midst of her chemotherapy.

We do not believe it was the intention of parliament to disadvantage any firefighter on the basis of their sex, pregnancy, parental status, family responsibilities or otherwise.

We therefore seek the Committee's consideration of the following amendment to section 36E(2) of the Act to ensure no firefighter has to endure this again –

(2) A period of 12 months may be included only if, throughout the period, the person—

(a) was employed for the purpose of firefighting; and

(b) attended fires to the extent reasonably necessary to fulfil the purpose of the person's employment or was on paid leave.

12. Proposed amendment to Schedule 4A of the Act

In July 2020, the Northern Territory Legislative Assembly passed amendments to the *Return to Work Act 1986* and *Return to Work Regulations 1986*.

Like Queensland, the Northern Territory introduced presumptive legislation for firefighters in 2015. The 2020 amendments expanded the number of diseases to include:

- Asbestos related diseases
- Skin cancer
- Lung cancer
- Liver cancer

A qualifying period of 15 years' service is required for each of the above.

We therefore seek the Committee's consideration of amending Schedule 4A of the Act to include comparable provisions for Queensland's firefighters.