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3 August 2015

Ms Deborah Jeffrey
Research Director
Finance and Administration Committee
Parliament House
George Street
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Dear Ms Jeffrey

**WORKERS' COMPENSATION AND REHABILITATION AND OTHER LEGISLATION
AMENDMENT BILL 2015**

On behalf of Queensland Law Society I thank you for the opportunity to comment on this Bill; the Society appreciates being consulted on legislative development and welcomes participation in this inquiry.

The Society is largely supportive of the Bill which I note is in line with the Society's long-held opposition to the introduction of the impairment threshold.

However, the Society raises the following concerns:

1. Clause 32 of the transition provisions provides that any decision made under s 189 during the transitional period is binding on workers. This will have the effect of preventing any worker who has accepted a lump sum for injury since 31 January 2015 from accessing common law remedies. The Society supports increasing the retrospectivity of the Bill to cover workers in this situation.
2. The Society also notes that the way in which the legislation will deal with workers injured between 15 October 2013 and 31 January 2015 is not yet clear, and again the Society supports these workers being covered by the retrospective effect of the Bill.
3. The definition of "firefighter" leaves some without the benefit of the presumptive legislation, such as firefighters employed by the Department of National Parks, Sport and Racing or those employed in private enterprise. The Society supports the broadening of the definition to encompass these categories of firefighter.
4. The way in which an exposure incident is established may result in excluding firefighters who have been legitimately exposed to harmful substances. As per the draft, in order to show an exposure incident has occurred, the following criteria must be satisfied:

- The firefighter attends a location; and
- A fire is burning at the location; and
- The firefighter participates in extinguishing, controlling or preventing the spread of the fire at the location.

It is not clear from the Bill whether or not the definition of 'burning' includes smouldering or another heat-related event such as overhaul or dampening down work. Firefighters still risk exposure during these events, and the Society is of the view that the definition should be clarified to ensure that all dangerous exposure events are captured by the legislation.

5. Holding volunteers to a threshold of 150 exposure incidents may exclude many volunteers due to the paucity of records kept and the lack of a uniform system of record-keeping. Feedback from the Society's members reveals that record-keeping can vary from region to region, and in some cases is in the personal notebooks of rural supervisors or does not exist at all. It is unlikely that many volunteers would be able to discharge an evidentiary burden of 150 exposure incidents, regardless of their length of service.

In addition, volunteers are often at higher risk at a fire due to the fact that they rarely have the same quality or quantity of equipment (such as breathing apparatus and protective clothing) as professional firefighters and regularly attend bushfires, which are usually of significant duration. Volunteers are also responsible for their own laundry, and can spend many days in the same protective clothing; professionals change daily and have access to washing machines specifically designed to clean protective clothing.

The Society supports an amendment to set criteria for exposure incidents which is reflective of the unique risks facing volunteers, and which is linked to data readily available to them.

6. The Society supports the inclusion of a definition of "igniting event".
7. The Society supports a sunset clause, similar to the Northern Territory legislation, in relation to section 712, Firefighter Diagnosed with Specified Disease Before Commencement.

Again, I thank you for the opportunity to comment on this Bill. Should you have any follow up questions, please do not hesitate to contact [REDACTED]

Yours faithfully

[REDACTED]
Michael Fitzgerald

President

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