



BILL NO. 204

Government Bill

*2nd Session, 63rd General Assembly
Nova Scotia
68 Elizabeth II, 2019*

An Act to Amend Chapter 10 of the Acts of 1994-95, the Workers' Compensation Act

CHAPTER 40
ACTS OF 2019

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
OCTOBER 30, 2019**

The Honourable Labi Kousoulis
Minister of Labour and Advanced Education

*Halifax, Nova Scotia
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**An Act to Amend Chapter 10
of the Acts of 1994-95,
the Workers' Compensation Act**

Be it enacted by the Governor and Assembly as follows:

1 Subclause 2(ae)(v) of Chapter 10 of the Acts of 1994-95, the *Workers' Compensation Act*, is repealed and the following subclause substituted:

(v) a volunteer firefighter who is a member of a fire department registered by a municipality under Section 294 of the *Municipal Government Act* or the Halifax Regional Municipality under Section 305 of the *Halifax Regional Municipality Charter*,

2 Section 5 of Chapter 10 is repealed and the following Section substituted:

5 (1) This Part applies to

(a) the volunteer firefighter members of each fire department that is registered by a municipality under Section 294 of the *Municipal Government Act* or the Halifax Regional Municipality under Section 305 of the *Halifax Regional Municipality Charter*; and

(b) municipalities within whose boundaries a fire department referred to in clause (a) that includes volunteer firefighters is located and serves.

(2) For the purpose of this Part, the municipality within whose boundaries a fire department referred to in clause (1)(a) is located and serves is the employer of the volunteer firefighter members of that fire department.

(3) The volunteer firefighter members of a fire department are deemed to be in the course of their employment from the time they

(a) arrive at the place where a training exercise begins until the exercise has been completed; or

(b) receive a notification, by any means, of a fire or emergency, including the time of travel to the fire station, fire scene or the site of the emergency where they perform duties until, after being released from duty, they return home, to the place where the notification was received, to their place of regular employment or to any place for treatment, refreshment or recreation, whichever they reach first.

(4) The Board shall, by regulation, determine the minimum and maximum earnings of the volunteer firefighter members of the fire department for the purpose of calculating the average earnings of the volunteer firefighters pursuant to subsection (5).

(5) The municipality that is the employer of a volunteer firefighter pursuant to subsection (2) shall choose an amount between the minimum and maximum amounts determined by the Board pursuant to subsection (4) to apply as the average

earnings for the volunteer firefighter members of the fire department of which the volunteer firefighters are members.

(6) The amount chosen by a municipality pursuant to subsection (5) applies to every volunteer firefighter who is a member of a fire department in that municipality.

(7) The municipality that is the employer of a volunteer firefighter pursuant to subsection (2) shall notify the Board of

(a) the number of volunteer firefighter members in each fire department that is registered by the municipality under Section 294 of the *Municipal Government Act* or Section 305 of the *Halifax Regional Municipality Charter*; and

(b) the average earnings of the volunteer firefighter members of each fire department referred to in clause (a) for the purpose of this Part.

3 Section 35A of Chapter 10 is repealed and the following Sections substituted:

35A (1) In this Section and Section 35B, “firefighter” means an employee, including officers and technicians, employed by a municipality or the Department of National Defence 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 volunteer firefighter member of a 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 or deemed employment as a firefighter, unless the contrary is proven.

(3) The presumption in subsection (2) applies only to a worker who

(a) has been a member of a fire protection service of a municipality, the Department of National Defence or a fire department that includes or has as members volunteer firefighters;

(b) has been a member of the fire protection service referred to in clause (a) for a minimum period prescribed by the Governor in Council by regulation;

(c) has been regularly exposed to the hazards of a fire scene, other than a forest-fire scene, throughout that period; and

(d) satisfies any other condition or restriction on the availability of the presumption in relation to a particular disease as prescribed by the Governor in Council by regulation.

(4) Subject to subsection (5), the presumption in subsection (2) applies to accidents that happen on or after January 1, 1993.

(5) For any disease prescribed pursuant to this Section on or after the date this Section comes into force, the presumption in subsection (2) applies only to

accidents that happen no sooner than one year before the date the disease is prescribed.

(6) For the purpose of this Section, Section 35B and Section 35C, with respect to an accident referred to in subsection (2) that happens no sooner than one year before the date this Section comes into force,

(a) a volunteer firefighter member of a fire department is deemed to be a worker; and

(b) the municipality within whose boundaries the fire department referred to in clause (a) is located and serves is deemed to be the employer of the volunteer firefighter.

(7) 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), including different periods for different diseases;

(c) prescribing any other condition or restriction on the availability of the presumption in relation to a particular disease.

(8) The exercise by the Governor in Council of the authority contained in subsection (7) is a regulation within the meaning of the *Regulations Act*.

35B (1) Subsection 83(2) does not apply with respect to a firefighter who learned before July 30, 2003, that the firefighter suffered from a disease prescribed pursuant to Section 35A.

(2) For any disease prescribed pursuant to Section 35A on or after the date Section 35A comes into force, subsection 83(2) does not apply with respect to a firefighter who learned before the disease was prescribed that the firefighter suffered from the disease.

(3) For greater certainty, subsection (2) only applies to a firefighter to whom the presumption in subsection 35A(2) applies, in accordance with subsection 35A(5).

35C For greater certainty, compensation payable for the period before Section 35A came into force must be calculated in accordance with this Part and not in accordance with the former Act, as defined in Section 225.

4 (1) Section 83 of Chapter 10, as amended by Chapter 16 of the Acts of 2017, is further amended by adding immediately after subsection (2A) the following subsection:

(2B) The Board shall not pay compensation to any firefighter referred to in subsection 35B(2) unless

(a) the firefighter has given the employer notice of the disease as soon as practicable; and

(b) the firefighter's claim for compensation is made within twelve months,

after the disease is prescribed for the purpose of subsection 35A(2).

(2) Subsection 83(4) of Chapter 10 is amended by adding “or (2B)(a)” immediately after “(2)(a)” in the first line.

(3) Subsection 83(6) of Chapter 10, as amended by Chapter 16 of the Acts of 2017, is further amended by

(a) striking out “or” at the end of clause (b); and

(b) adding immediately after clause (b) the following clause:

(ba) the date when a disease referred to in subsection (2B) is prescribed for the purpose of subsection 35A(2); or

5 This Act has effect commencing one year after the day on which it receives Royal Assent.
