How to submit this form

Submission form: Seeking proposals for additions to the list of occupational diseases under the Accident Compensation Act 2001

The Ministry of Business, Innovation and Employment (MBIE) would like your suggested additions to Schedule 2, the list of occupational diseases in the Accident Compensation Act (2001). Please provide your feedback by **5pm, on 17 May 2023.**

When completing this submission form, please provide specific occupational disease names, their relevant exposure, and any data that may aid your submission. Your feedback will help inform decisions about the list of diseases that MBIE will provide to independent researchers and medical experts for their analysis.

We appreciate your time and effort taken to respond to this consultation.

Instructions

To make a submission you will need to:

1. Fill out your name, email address, phone number and organisation.
2. Fill out your responses to the discussion document questions. You can answer any or all of these questions in the **discussion document**. Where possible, please provide us with evidence to support your views. Examples can include references to independent research or facts and figures.
3. If your submission has any confidential information:
    i. Please state this in the email accompanying your submission, and set out clearly which parts you consider should be withheld and the grounds under the Official Information Act 1982 (Official Information Act) that you believe apply. MBIE will take such objections into account and will consult with submitters when responding to requests under the Official Information Act.
    ii. Indicate this on the front of your submission (e.g. the first page header may state “In Confidence”). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).
    iii. Note that submissions are subject to the Official Information Act and may, therefore, be released in part or full. The Privacy Act 1993 also applies.

How to submit this form

4. Submit your feedback:

i. As a Microsoft Word document by email to **ACregs@mbie.govt.nz** with subject line: *Consultation: Suggested additions to Schedule 2*

ii. By mailing your submission to:

The Manager, Accident Compensation Policy
Ministry of Business, Innovation and Employment
PO Box 1473

Wellington 6140
New Zealand

Submitter information

MBIE would appreciate if you would provide some information about yourself. If you choose to provide information in the section below it will be used to help MBIE understand the impact of our proposals on different occupational groups. Any information you provide will be stored securely.

Your name, email address, phone number and organisation

Name:	Privacy of natural persons
Email address:	Privacy of natural persons
Phone number:	Privacy of natural persons
Organisation:	Envirocom (NZ) Limited

☐ The Privacy Act 1993 applies to submissions. Please tick the box if you do **not** wish your name or other personal information to be included in any information about submissions that MBIE may publish.

☐ MBIE may upload submissions, or a summary of submissions received to MBIE's website at **www.mbie.govt.nz**. If you do **not** want your submission or a summary of your submission to be placed on our website, please tick the box and type an explanation below:

I do not want my submission placed on MBIE's website because… [insert reasoning here]

Please check if your submission contains confidential information.

☐ I would like my submission (or identifiable parts of my submission) to be kept confidential, and **have stated** my reasons and ground under section 9 of the Official Information Act that I believe apply, for consideration by MBIE.

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1. Do you think there is relevant evidence to support including new occupational diseases to Schedule 2 at this time?

   ☒ Yes ☐ No ☐ Not Sure

2. If yes to Question 1, what occupational diseases should be added to Schedule 2?

   Appended as separate pages listing occupational diseases

3. For each occupational disease suggested in response to Question 2, what should be listed as the corresponding:

   a. agents, dusts, compounds, substances, radiation or things, and

   b. if appropriate, the relevant level or extent of exposure to these; or

   c. occupations, industries, or procresses?

4. Do you think there is relevant evidence to support including additional exposures for occupational diseases currently included in Schedule 2?

   Evidence supporting the exposures for the listed occupational diseases listed below is included

5. If yes to Question 4, for each relevant current occupational disease, what should be listed as the corresponding additional:

   a. agents, dusts, compounds, substances, radiation or things, and

   b. if appropriate, the relevant level or extent of exposure to these; or

   c. occupations, industries, or procresses?

   Affected occupations are listed separately below with evidence for additional exposures

If you have suggested including a new occupational disease or diseases, and/or additional exposures, please provide links and/or references to supporting evidence.

Where relevant, please include information on how the disease or diseases affect different populations, including impacts on different genders.

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Thank you for the opportunity to be heard.

My submission relates to Accident Compensation Act 2001 s.30(3)(b)(ii) – an occupation, industry or process listed below that we submit occasion personal injury, gradual process, disease or infection caused by exposure to the agents listed that we submit should be added to Schedule 2.

The occupations we wish to see identfied are:

Firefighting – affected groups to include:

- FENZ Permanent Firefighters, both urban and rural, those currently serving and those personnel who are retired
- Volunteer Firefighters within the meaning of the Fire and Emergency New Zealand Act 2017 (FENZ Act) and the Health and Safety at Work Act 2015 (HSWA) who are under the control, and direction of FENZ, identified as the PCBU in owing the Primary Duty of Care to Volunteer Firefighters. The group to include retired Volunteer Firefighters.
- Industrial Fire Brigade Firefighters
- NZDF Military Firefighters
- Airport Fire Service Firefighters

Fire fighters of both genders belonging to the orgnisations listed above fall within the membership coverage of the United Fire Brigades Association (UFBA). This application is in support of the UFBA which will be making separate application on suggested additions to Schedule 2, the list of occupational diseases in the Accident Compensation Act (2001).

It is appreciated that Section 30: subsection (b) limits coverage to a person who is or has been employed – (ii) in an occupation, industry, or process described in that schedule in relation to that type of personal injury.

We would suggest that the Act in 2001 wasn't written with volunteer Firefighter engagement in mind. We would submit that the Volunteer Firefighter workforce is a significant component, in fact the great majority of firefighting capability in New Zealand at approximately 85% of the workforce. A Volunteer Firefighter means a person who carries out work for FENZ, in a volunteer capacity in relation to the functions of FENZ, and with the knowledge and consent of FENZ. Included are those functions described in FENZ Act sections 10, 11, and 12. And although not an employee within the meaning of S.6 of the Employment Relations Act 2000, FENZ has a duty under S.118 of the Crown Entities Act 2004 to volunteers working for FENZ including in (2)(a) to provide good and safe working conditions.

(WorkSafe New Zealand - extracted from https://www.worksafe.govt.nz/managing-health-and-safety/getting-started/understanding-the-law/volunteers/information-for-pcbus-that-engage-volunteers/#lf-doc-44214)

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I make the point that the volunteer component of firefighting in New Zealand is a disciplined, uniformed service with duties and obligations to preserve life and render safe situations, and with exposures and frequency to consequent risk no different to that of the permanent staff.

Emergency Services including:

- Ambulance Emergency Response personnel
- NZ Police Operational personnel
- NZDF personnel deployed on qualifying routine service as defined in Veterans Support Act 2014 (VSA'14) s.8 in support of declared or non declared Civil Defence or other Emergencies and situations requiring NZDF assistance to the civil authorities.

Rationale for inclusion:

Personnel of the above organisations and occupations are exposed in varying degress to toxic environments resulting from fire effluent when in support of FENZ response to fire emergencies and exposure to toxins during hazardous substance incidents. Incidence of disease or conditions among that cohort would be expected to be dose related and proportional to that experienced by Firefighters. Consequent fiscal liability would equally be proportionate and should we suggest not preclude but rather support the case for recognition and inclusion of those occupational groups in Schedule 2.

Historic exposure examples include response to the Canterbury earthquakes, Covid -19 security, Parliament grounds protest fires and activities, Cyclone Gabrielle, and Whakaari White Island.

- Note that: NZDF personnel may be deployed in New Zealand, NZ Territorial Waters or NZ Dependencies where the Chief of Defence Force has recommended to the Minister of Defence that such deployment be considered qualifying operational service as defined in VSA'14 s.9 where the environment or operational risks meet one or more of the criteria defined in s.9(6). Section 9 does not preclude operational service deployment in NZ and would thereby confer on those deployed the definition of Veteran and coverage under s.19 Presumption and of course is out of scope for this submission.

The point is made however that should a deployment be considered qualifying operational service, Defence Force personnel will be working alongside Firefighters and other Emergency Service personnel but with any resultant personal injury, gradual process, disease or infection caused by the toxic environment accepted as presumed through VSA'14 to have been caused by that exposure rather than under AC Act: Schedule 2. For consistency we ask for definitive clarification that Schedule 2 is presumptive with the meaning, intent and application symonomous with VSA'14 s.19

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Proposed additions to Schedule 2 affecting or likely to affect personnel and retired personnel of the above organisations and occupations:

International Labour Organisation (ILO) revised 2010 list conditions recommended for inclusion are those that affect or could potentially affect the above groups. All are toxicants, diseases or conditions that Emergency Service personnel especially Firefighters in terms of dose are exposed to.

Further support for inclusion is contained in the scientific literature references in the main body of the submission or in the referenced literature:

1.1.9 Diseases caused by flourine and its compounds

1.1.16 Diseases caused by asphyxiants like carbon monoxide, hydrogen sulphide, hydrogen cyanide or its derivatives

1.1.18 Diseases caused by oxides of nitrogen

1.1.22 Diseases caused by mineral acids

1.1.23 Diseases caused by pharmaceutical agents including clandestine lab drugs and precurser chemicals

1.1.33 Diseases caused by corneal irritants and including all EPA assessed Class 6.4A substances

1.1.34 Diseases caused by ammonia

1.1.36 Diseases caused by pesticides and including agrichemical and other toxicants generally including Classes 6.1A-E, 6.5A&B, 6.7A&B, 6.8A-C & 6.9A&B including narcotic effect and 2.1.7 sensitising agent asthma Class 6.5A.

1.137 Diseases caused by sulphur oxides

1.140 Diseases caused by chlorine

1.2.6 Diseases caused by extreme temperatures

1.3.2 Hepatitus

1.3.9 Covid-19 including Long Covid noted as an additional disease post ILO 2010

2.3.8 Musculoskeletal disorders common to firefighting including but not limited to shoulder, hip, back, and knee conditions

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Existing Schedule 2 Occupational diseases should where applicable be associated with firefighting as exposures identified and proven through international research to affect that occupational group.

Note that the New Zealand Carcinogens Survey 2021 Overview March 2023 - WorkSafe Mahi Haumaru Aotearoa identifies firefighting activities for the exposed ocupational group at rates that are at variance with the international research into Firefighter diseases and conditions and which has resulted in Presumptive legislation in those jurisdictions. We ask that the international research is fully taken into account.

Existing Schedule 2 diseases and conditions that we submit should be associated with the occupation and volunteer engagement of firefighting, and by association other affected named groups include in general but should not be limited to:

- Lung cancer or mesothelioma diagnosed as being caused by asbestos
- Diseases of the type associated with exposure to aromatic hydrocarbons including chronic solvent induced encelopathy
- Naso-pharyngeal carcinoma disagnosed as caused by formaldehyde
- Laryngeal carcinoma and peripheral neuropathy diagnosed as caused by sulphuric acid mist or organic solvents respectively and/or in combination.
- Bladder cancer caused by exposure to amines and other named chemical exposure causes
- Occupational asthma and contact dermatitus from exposure to sensitising agents

New additions proposed for Schedule 2 as referenced in the literature:

NB: In 2022 the World Health Organisation agency: The International Agency for Research on Cancer (IARC) declared that occupational exposure as a Firefighter has been classified as carcinogenic (a preventable cause of human cancer). A decision made by 25 leading scientists from eight countries proving there are links between firefighting and cancer.

As noted above it is our belief that other Emergency Services should be included in this proposal as being similarly affected by carcinogens resulting from structure, industrial, vegetation and vehicle fires, or chemical spill incidents as are Firefighters. For example;

- Ambulance Officers and paramedics treating and transporting fire or chemical affected patients still off gassing carcinogens. Ambulance officers attend all significant fire, chemical spill, or injury callouts attended by FENZ.

- Police Officers as members of an arson or methamphetamine investigation unit or who are otherwise employed to control scenes at incidents or fires notably without PPE. Over 1,800 Police personnel were deployed to the protest on Parliament grounds and subjected to toxic fire effluent and human excrement with the potential for e-coli and Hepatitis infection.

Other than operational differences between Fire Services internationally and in Standards covering PPE and equipment we make the point that firefighting is firefighting with no or little difference in exposures to toxic chemicals and fire effluent (combustion products).

The Cancers cited in the Research Literature Review that show increased Standardised Incidence Ratios (SIR) and Standardised Mortality Ratios (SMR) in Firefighters over the reference populations adjusted for relevant factors:

Scottish Firefighter Occupational Cancer and Disease Mortality Rates (Stec A, Robinson A, Wolffe T, Bagkeris E - Retrieved from https://academic.oup.com/occmed/article/73/1/42/6964909)

The study found significantly higher cancer SMR for

Prostate (SMR 3.80)

Myeloid leukaemia (SMR 3.17)

Oesophagus (SMR 2.42)

Kidney and bladder (SMR 3.28)

Ischaemic heart disease (SMR 5.27)

Stroke SMR (2.69)

Other interstitial pulmonary diseases (SMR 3.04)

SMRs for cancers without specification of the site were also greater than 2.0.

A report commissioned by the UK Fire Brigades Union undertaken by Anna A Stec Professor in fire chemistry and toxicity University of Central Lancashire found from surveys undertaken that 4.1% of serving Firefighters had been diagnosed with cancer compared to less than 1% of the general populace. (retrieved from https://www.fbu.org.uk/publications/minimising-firefighters-exposure-toxic-fire-effluents)

The international Agency for Research on Cancer (IARC) a World Health Organisation (WHO) body of which Prof. Stec is a member found there was sufficient evidence of association for cancer in Firefighters for:

- Mesothelioma
- Cancers of the bladder
- Colon
- Prostate
- Testes
- Non-Hodgkin lymphoma

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Monash University Centre of Occupational and Environmental Health Final Report – Australian Firefighters Health Study (Glass D A/Prof. et al 10eborah.glass@monash.edu)

(retrieved from

https://www.google.com/search?q=Monash+University+Centre+of+Occupational+and+Environmental+Health+Final+Report+%E2%80%93+Australian+Firefighters+Health+Study&oq=Monash+University+Centre+of+Occupational+and+Environmental+Health+Final+Report+%E2%80%93+Australian+Firefighters+Health+Study+&aqs=chrome..69i57.2094j0j15&sourceid=chrome&ie=UTF-8)

The findings, while the cancer mortality risk for paid and volunteer male and female Firefighters was reduced compared with the Australian population this was likely the result of a strong 'healthy worker' and 'healthy hire' effect and the likely lower smoking rate.

A conclusion reached was that Firefighters tend to be healthier than the general populace adjusted for age and other confounding factors and with cancer recovery rates from improved treatment over time resulting in lower mortality but in higher incidence rates. It was noted that: "A number of cancers now have a good cure rate, so incidence is a better measure of disease than is mortality."

Overall cancer incidence (SIR) was raised, significantly for male paid Firefighters, and with an overall cancer trend for increased incidence with attendance at vehicle fires. Prostate cancer incidence was statistically significant and increasing with the length of time served.

The study highlighted the incidence of cancer statistics being raised for the following which follows other international trends and reports:

- Testicular cancer – significant for Volunteers who had attended fires compared to those who had not.
- Kidney cancer with increased incidence also related to the number of incidents attended.
- Colorectal cancer significantly increased incidence from attendance at structure fires.
- Female reproductive cancers significantly increased for landscape fire attendance and SIR elevation for thyroid cancer.
- Colorectal, Hodgkins disease, Non-Hodgkins Lymphoma, Myeloma and Leukaemia SIR was greater than 1 for female Volunteer Firefighters.
- There was an increased risk of cancer for female Firefighters who had attended the most vehicle fires.

The study noted the latency period from first exposure and diagnosis and varying between types of cancers. The fact that a Firefighter has served should we submit be sufficient evidence that the condition suffered be presumed to have been caused by exposure irrespective of latency period or the number of years served.

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To comment on the literature review:

It should be appreciated that this submission is an extremely brief and incomplete summary of the scientific literature available worldwide into the incidence of cancers among Firefighters. There are a few inconsistencies between various study reports in some of the SMR and SIR statistic thus derived. What does stand out is that there is consistency showing elevated instances of cancers over the general populace for Firefighters.

In addition:

- As a recognised fire effluent we would ask that diseases associated with exposure to 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) be included; and

- Diseases associated with PFAS Firefighting foams; historic use of and current use as Legacy foams subject to the EPA Fire Fighting Chemicals Group Standard 2021 HSR002573

To conclude:

This an extremely stressful and emotive issue for the Firefighting community; for themselves, their families and whānau from both a personal and an holistic perspective.

Administration of the process has not been helped by comments previously made by then ACC CEO that: “Firefighters put themselves in harm's way to keep our communities safe and we recognise the high risk of being exposed to hazardous elements throughout their careers.”

But then going on to say: “If a firefighter or former firefighter develops cancer and there is evidence that it was due to **significant fire exposure at work**, then they **may be covered by ACC**.” (My emphasis added).

‘Every claim is considered on a case-by-case basis to determine whether it is more-likely-than-not work-related.’

We make the point that proof should not be incident related or time critical but rather presumptive, it should not be considered on a case-by-case basis but accepted as related to the occupation or volunteer exposure risk from the hazards.

“Their illness is work related, they are required to prove it – an almost impossible retroactive task” Anna Stec, Professor in fire chemistry and toxicity University of Central Lancashire.

As both a Vietnam Veteran and a Firefighter I wish to draw a comparison between the respective legislative processes. New Zealand as a nation recognises that exposure to a toxic environment on a military deployment may lead to a condition presumed to have resulted from that deployment potentially presenting half a century later. And from accepted conditions that may be related to the theatre in which served and/or be covered by New Zealand adopted Australian Statement of Principles (SoP’s).

We make the point that Firefighting by comparison is a ‘whole of career’ deployment in a toxic environment as recognised and stated by the WHO IARC. We ask for presumptive consistency.