



<b>DEPARTMENT: FIRE</b> <b>DATE PREPARED: April 6, 2009</b> <b>COUNCIL MEETING DATE: April 14, 2009</b>	<b>PAGE 1 OF 2</b> <b>REPORT NO. F-068/09</b>
<b>SUBJECT Presumptive Legislation</b>	
<input type="checkbox"/> Approved <input type="checkbox"/> Approved with Amendments <input type="checkbox"/> Other	
Resolution #	

### **BACKGROUND**

In May 2007 Bill 221 the Workplace Safety and Insurance Amendment Act was passed into Legislation which provided for presumptive insurance entitlements for firefighters who have incurred certain work related diseases during their career. Many studies have been introduced demonstrating the adverse affects fire and the products of combustion have on fire fighters throughout their career. Welcomed by the fire service, it was however disheartening to find that this Legislation only pertained to full time (career) fire fighters and not volunteer or part time fire fighters.

Since 2007 our professional organizations have been working with the province to correct this injustice and have volunteer fire fighters included in the legislation. However recent information suggests that the government has now put any changes on hold.

### **DISCUSSION/ANALYSIS**

There are 478 fire departments across Ontario employing a total of 29,800 fire fighters of which 19,021 are volunteers. It is recognized that many volunteer fire fighters will see as many or more fires in his/her career than a full time fire fighter who works shifts. This is due to the fact that volunteer fire fighters are on call 24 hours a day 365 days per year. In a composite department such as ours for example, two 30 year veterans who are present at the same fires and diagnosed with same ailment one full time and the other volunteer would see the full time receiving compensation based on the Presumptive Legislation and the other would have to prove his/her right to compensation.

I have included correspondence from the Ontario Association of Fire Chiefs as well as a letter from the Minister of Labour on the subject.

As a result of the lack of progress in resolving this disparagement some municipal Councils' have passed resolutions requesting that the Provincial Government extend Bill 221 protection to volunteer fire fighters.

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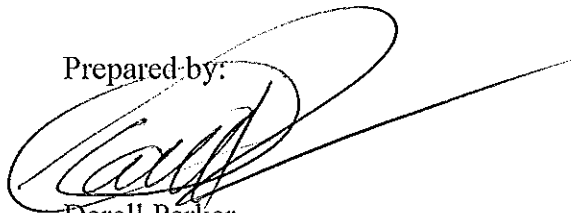
**RECOMMENDATION**

That Ingersoll Town Council in recognition of the work and sacrifices made to communities and their residents throughout the Province of Ontario by volunteer fire fighters who contract workplace related illnesses be recognized and that a resolution be passed and sent to the Minister of Labour in support of extending presumptive workplace insurance coverage to volunteer fire fighters in the Province.

**ATTACHMENTS**

O.A.F.C. Letter to Minister of Labour, June 11, 2007  
Minister of Labour Letter to O.A.F.C., September 7, 2007  
Ottawa City Council Resolution  
WSIB Guidelines

Prepared by:



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Fire Chief



**Ontario  
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of  
Fire Chiefs  
2007-2008**

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June 11, 2007

The Hon. S. Peters  
Minister of Labour  
400 University Ave.  
14<sup>th</sup> Floor  
Toronto, ON  
M7A 1T7

Re: Bill 221: Presumptive Legislation for Firefighters

Dear Mr. Peters,

We are responding to your letter of June 7, 2007 in which you asked the Ontario Association of Fire Chiefs (OAFCh) for comments on the development of regulations, following "Bill 221: Presumptive Legislation for Firefighters" that can be applied to volunteer and part time firefighters and fire investigators with respect to occupational diseases.

We would like to thank the government and all parties for passing "Bill 221: Presumptive Legislation for Firefighters" so that the firefighters, who risk their lives for the benefit of others, and their families are looked after.

The Ontario Association of Fire Chiefs represents the Chief Fire Officers from the 478 Fire Departments across the Province of Ontario. These Chief Officers are ultimately responsible, by statute, to their municipal Councils for the management and delivery of fire, rescue, and emergency response; and for the health and safety of the men and women who deliver these services. Across Ontario, the 478 fire departments employ approximately 29,800 fire service personnel: 10,627 full-time, 19,021 volunteer and 133 part-time firefighters.

The OAFCh believes that there are four main reasons why all classifications of firefighters should be treated equally when it comes to occupational disease.

During the preparation of the Presumptive Legislation, the government reviewed scientific studies that showed that various firefighter diseases are related to exposure during the course of performing their duties. This exposure occurs regardless of the employment classification of the firefighter. Many volunteer firefighters during their careers respond to as many or more fires than full time firefighters due to their availability to respond to all calls, 24/7. In addition the chemicals used in modern agricultural businesses and the location of industries in rural areas means that rural Volunteers also face the potential for significant exposure to carcinogenic substances.

The second reason for equality is that the province's own legislation, the Fire Protection and Prevention Act, 1997, contains the following definition: "Firefighter means a Fire Chief and any other person employed in, or appointed to, a fire department and assigned to undertake fire protection services, and includes a volunteer firefighter."

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Tel: 905-426-9865 or 1-800-774-6651 Fax 905-426-3032 E-mail: [administration@oafc.on.ca](mailto:administration@oafc.on.ca)

We believe that this same definition of firefighter should be applied in the regulations i.e. that volunteer and part time firefighters are exposed to the same risks and dangers as full time firefighters and therefore should be recognized equally in the regulations.

Our third reason for requesting all firefighters to be treated equally is that 34% of all Ontario fire departments are Composite fire departments i.e. they are composed of a mixture of full time and volunteer firefighters. In many of these fire departments the full time and volunteer firefighters are fighting the same major fires side by side. Given that these firefighters are facing identical risks and that they are working for the same employer, we should not be treating them differently.

The fourth point we wish to raise is the fact that many full time firefighters started their careers as Volunteer firefighters. Their years of exposure start from the beginning of their career as a firefighter and applying the same regulations will make it easier to recognize this situation.

The following is our response to the specific four questions raised in your letter:

1. *Should the required years of service for the 8 cancers [for Volunteers] be the same as proposed for full time firefighters....?*

Comments:

There is no rationale or scientific evidence to justify treating one classification of firefighters different from another. We know that it is proven that the listed cancers are common to firefighting activities. The science applies equally to both groups and does not differentiate by type of employment. How the firefighter is paid does not separate them from the common dangers that they all experience.

The number of years of service that an individual has served is not necessarily a key factor as not all forms of cancer develop cumulatively. Due to the toxic nature of the atmospheres that firefighters work in, one exposure (such as the Plastimet fire in Hamilton) could cause disease.

The years of service proposed by the government for full time firefighters seem reasonable. The OAFIC feels that the years of service requirement for Volunteer and Part Time firefighters, and Fire Investigators should be the same as those for full time firefighters.

2. *Should additional conditions be listed in a regulation for volunteer firefighters? In Nova Scotia volunteers must have participated in at least 20% of all department activities including fire calls and training.*

Comments:

Although occupational disease is based on exposure, setting an arbitrary percentage for firefighter participation is questionable. There is no requirement for a full time firefighter to attend a fixed percentage of the departmental fire calls; therefore, there should not be percentage participation rate for other firefighters. The requirement should be that the individual was an active emergency responder during a documented period of time and did attend fires or emergency incidents.

3. *Should there be a qualification that the volunteer firefighter be employed on or after a specific date to qualify for presumptions? For example, 10 years of service and employed on or after 'x' date.*

Once again there should be no difference in the treatment of firefighters based on their classification. If there is a qualification requirement for a full time firefighter then the same requirement should apply to Volunteer and Part Time firefighters and Fire Investigators.

4. *Are there other issues that need to be considered?*

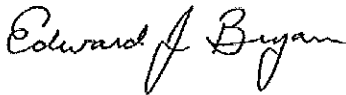
Although not mentioned in your letter, the OAFCA believes that forestry firefighters should also be included in these regulations. In performing their assigned duties these men and women are exposed to smoke from forest fires for extended periods of time and therefore may suffer the same health impacts.

Ultimately the goal of Fire Chiefs is to reduce or eliminate firefighter cancer. We will continue to work on this through rigorous prevention programs, programs that encourage wellness; protective preventative measures; and, early and thorough screening.

Given that any firefighter may develop cancer because of the exposures that occur in the performance of their duties, the OAFCA believes that all classifications of firefighters should be treated equally in the presumptive legislation regulations. We also believe that these regulations should come into effect as soon as possible so that all Ontario firefighters and their families will be covered.

We look forward to meeting with you to discuss our views. Our Executive Director Barry Malmsten (905-426-9865) will contact Mr. Rob Walters to arrange a suitable time.

Yours truly,



Ted Bryan  
Director

Ministry of Labour

Ministère du Travail

Office of the Minister

Bureau du ministre



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SEP 07 2007

Mr. Barry Malmsten  
Executive Director  
Ontario Association of Fire Chiefs  
206 - 335 Bayly Street West  
Ajax, Ontario  
L1S 6M2

Dear Mr. Malmsten:

Thank you for meeting with my policy advisor, Mr. Rob Walters, and Ministry of Labour officials on August 28, 2007 to discuss the Ontario Association of Fire Chiefs' recommendations on workplace safety and insurance benefits for volunteer and part-time firefighters. As Minister of Labour, I value the dialogue with our stakeholders and partners on the issues that affect Ontario's workers.

The purpose of the recent meeting was to discuss the recent amendments to the *Workplace Safety and Insurance Act, 1997 (WSIA)* to make the application process for these benefits easier for firefighters and their families. I was informed that the meeting with you and Chief Bryant was very productive, providing information on how municipalities with composite or volunteer departments operate.

It is important that fire chiefs and firefighters, whether full-time, part-time or volunteer, understand that the *WSIA* provides coverage to them if they are injured or contract an occupational disease due to exposure while performing their duties.

The *Workplace Safety and Insurance Amendment Act (Presumptions for Firefighters), 2007* (Bill 221), which passed on May 3, 2007 with all-party support, will assist firefighters who develop job-related cancer or sustain a heart injury when they file a claim with the Workplace Safety and Insurance Board (WSIB). The amendments to the *WSIA* allow the government to identify, through regulation, specific diseases or heart injuries of firefighters that would be presumed to be work-related for purposes of benefit entitlement unless the contrary is shown.

The amendments help ensure fairness and respect when a workplace safety and insurance claim is filed as the legislation removes the burden of proving the cancer or heart injury was the result of firefighting from hard-working firefighters and their families. The WSIB would presume certain diseases or a heart injury to be work-related unless it could be demonstrated that it was caused by other factors, such as non-work-related exposure or heredity.

The amendments demonstrate the Ministry of Labour's commitment to the well-being of firefighters. We recognize the sacrifices they make and the special hazards they face, and we are ensuring that they get the support they deserve. I was proud to introduce the most comprehensive legislation in Canada to recognize the various types of firefighters and Office of the Fire Marshal fire investigators who may contract occupational disease due to fire exposure.

Since passage of Bill 221, the government has established a regulation for full-time firefighters under the *Workplace Safety and Insurance Act, 1997* and begun consultation with fire sector stakeholders to introduce a regulation to cover part-time and volunteer firefighters, and fire investigators.

The full-time firefighter regulation sets out eight types of cancer and the requirement for minimum years of service for each type of cancer, as shown in the chart below. The regulation also recognizes heart injuries suffered within 24 hours of fighting a fire.

Cancer/Illness	Criteria - Years of Service
Brain cancer	10 years
Bladder cancer	15 years
Kidney cancer	20 years
Colorectal cancer	10 years (diagnosed prior to 61 <sup>st</sup> birthday)
Non-Hodgkin's lymphoma	20 years
Leukemia (certain types)	15 years
Ureter cancer	15 years
Esophageal cancer	25 years
Heart injury	Within 24 hours of fighting a fire or participating in a training exercise involving a simulated fire emergency

The current consultations are to discuss how to extend the presumptions for the eight listed cancers and heart injuries to volunteer and part-time firefighters, and fire investigators. The ministry is continuing to receive written submissions from interested fire sector stakeholders in response to my letter of June 7, 2007.

I recently viewed and recommend the video "Mask up! and Live," jointly produced by the WSIB and the Ontario Professional Fire Fighters Association, on the importance of wearing the self-contained breathing apparatus system to limit exposure to hazardous chemicals at the fire scene. Information on the video can be found on the WSIB's website at [www.wsib.on.ca/wsib/wsibsite.nsf/Public/PreventionFirefighterVideo](http://www.wsib.on.ca/wsib/wsibsite.nsf/Public/PreventionFirefighterVideo).

In closing, I thank you for sharing your association's views and recommendations with the ministry. I look forward to continuing to work with your association on this and other important issues that affect firefighters.

Sincerely,



Steve Peters  
Minister

Contact Minister at Lobby

FYI

-----Original Message-----

**From:** Mills, Gordon**Sent:** February 20, 2009 16:37**To:** OAFC (E-mail)**Subject:** FW: Presumptive legislation

For distribution

**OTTAWA CITY COUNCIL  
26 and 28 November 2008  
ANDREW S. HAYDON HALL  
10:00 a.m.  
MINUTES 48**

The Council of the City of Ottawa met at Andrew S. Haydon Hall, 110 Laurier Avenue West, Ottawa, on 26 and 28 November 2008 at 10:00 a.m.

**MOTION NO. 48/40**

Moved by Councillor E. El-Chantiry

Seconded by Councillor J. Harder

**WHEREAS in May 2007, Bill 221, being the *Workplace Safety and Insurance Amendment Act (Presumptions for Firefighters), 2007*, has passed into legislation and recognizes workplace safety and insurance entitlement for full-time (career) firefighters who have incurred certain work-related occupational diseases; and**

WHEREAS in April 2007 the Community and Protective Services Committee and Council approved Councillor McRae's motion of support for this legislation prior to its adoption in the Ontario Legislature; and

**WHEREAS it was presumed at that time that such legislation would also apply to volunteer firefighters who face the same exposures as their full-time (career) peers; and**

**WHEREAS it appears that the extension of this legislation to cover volunteer firefighters is now uncertain; and**

**WHEREAS the vital service that Ottawa's volunteer firefighters provide in protecting the lives and properties of rural citizens must be recognized by treating them and their families fairly and with the same respect and rights as their full-time (career) peers;**

THEREFORE BE IT RESOLVED THAT Ottawa City Council call on the Ontario Provincial Government to move as quickly as possible to ensure that Bill 221 protection be extended to include the same level of coverage for volunteer firefighters in the Nation's Capital and throughout the Province of Ontario.

CARRIED

## W.S.I.B. GUIDELINES

### **Inclusion**

This policy applies to workers who are full-time firefighters as defined in Section 1 of the *Fire Protection and Prevention Act, 1997* who are scheduled to work an average of 35 hours or more per week.

### **Exclusion**

This policy does not apply to fire fighters who are scheduled to work an average of less than 35 hours per week or fire investigators, or volunteer firefighters, or forest or wildland firefighters.

### **Prescribed Cancers**

A medical diagnosis of non-Hodgkin's lymphoma, one of the three specified leukemias, or cancer originating from the specified organ is required for adjudication of claims under this policy. The prescribed cancers listed in the Regulation are listed below with their World Health Organization classification numbers.

<b>Prescribed Cancer</b>	<b>ICD-9 Code*</b>	<b>Description of ICD-9 Code</b>	<b>ICD-10 Code*</b>	<b>Description of ICD-10 Code</b>
1. Primary-site brain cancer	191	Malignant neoplasm of the brain	C71	Malignant neoplasm of the brain. Excludes: cranial nerves and retrobulbar tissue
2. Primary-site bladder cancer	188	Malignant neoplasm of the bladder	C67	Malignant neoplasm of the bladder
3. Primary-site kidney cancer	189	Malignant neoplasm of the kidney and other and unspecified urinary organs	C64 C65	Malignant neoplasm of the kidney Malignant neoplasm of the renal pelvis
4. Primary-site colorectal cancer	153 154	Malignant neoplasm of the colon  Malignant neoplasm of the rectum, rectosigmoid junction and anus	C18	Malignant neoplasm of the colon
			C19	Malignant neoplasm of the rectosigmoid junction
			C20	Malignant neoplasm of the rectum
5. Primary non-Hodgkin's lymphoma (NHL)	200 202	Lymphosarcoma and reticulosarcoma  Other malignant neoplasm of lymphoid and histiocytic tissue (i.e. nodular lymphoma)	C21	Malignant neoplasm of the anus and anal canal
			C82	Follicular (nodular) NHL
			C83	Diffuse NHL
			C84	Peripheral and cutaneous T-cell lymphomas
			C85	Other and unspecified types of NHL (i.e. lymphosarcoma)

Prescribed Cancer	ICD-9 Code*	Description of ICD-9 Code	ICD-10 Code*	Description of ICD-10 Code
6. Primary acute myeloid leukemia, Primary acute lymphocytic leukemia, Primary chronic lymphocytic leukemia	205.0	Acute myeloid leukemia	C92.0	Acute myeloid leukemia
	204.0	Acute lymphocytic leukemia	C91.0	Acute lymphocytic leukemia
	204.1	Chronic lymphocytic leukemia	C91.1	Chronic lymphocytic leukemia
7. Primary-site ureter cancer	189.2	Malignant neoplasm of the ureter	C66	Malignant neoplasm of the ureter
8. Primary-site esophageal cancer	150	Malignant neoplasm of the esophagus	C15	Malignant neoplasm of the esophagus

*\*International Statistical Classification of Diseases (Ninth and Tenth Revisions)*

### Prescribed Duration of Employment

Full-time firefighters with the minimum years of eligible Ontario service for the prescribed cancer are presumed to have a work-related occupational disease. The eligible years of service is the sum of all employment periods as a full-time Firefighter from the date of hire until the date of diagnosis. For cancer of the colon or rectum (i.e., colorectal cancer), there is an additional requirement of obtaining the medical diagnosis of disease prior to age 61.

Cancer/Illness	Criteria – Years of Service
Brain Cancer	10 Years
Bladder Cancer	15 Years
Kidney Cancer	20 Years
Colorectal Cancer	10 Years (diagnosed prior to 61 <sup>st</sup> birthday)
Non-Hodgkin's Lymphoma	20 Years
Leukemia (certain types)	15 Years
Ureter Cancer	15 Years
Esophageal Cancer	25 Years
Heart Injury	Within 24 hours of fighting a fire or participating in a training exercise involving a simulated fire emergency.

*Source – WSIB "Presumptions for fire fighters"*

### **The Presumption and its Rebuttal**

This policy is based on Regulation 253/07 that provides a presumption that the prescribed cancers are work-related occupational diseases. To qualify for this presumption, workers must meet the inclusion criteria of this policy, and must have been

- diagnosed with a prescribed cancer, and
- diagnosed after the prescribed minimum employment duration (and diagnosed prior to age 61 in the case of colorectal cancer), and
- diagnosed with that cancer on or after January 1, 1960.

Workers not meeting the inclusion criteria, and those excluded from this policy, will have their claims determined on their individual merits.

The presumption may be rebutted if it is established that the employment was not a significant contributing factor to the occurrence of the cancer.