

DRAFT FOR CONSULTATION

Accident Compensation (Extended Cover for FENZ Personnel) Amendment Bill

Member's Bill

Explanatory note

General policy statement

Volunteer firefighters are not covered for work-related illness or injury resulting from their firefighting duties because they do not receive a taxable payment for this work.

While paid firefighters are eligible for compensation for work-related mental injury, they must prove a single incident as the cause. Gradual process mental injury is not covered. Most firefighters are exposed to traumatic situations and incidents over a long period of time, resulting in a negative cumulative or gradual effect on their mental health. Even if volunteer firefighters did receive a taxable payment for their firefighting duties, they would still have to prove a single incident has caused the mental injury (for example, PTSD), which does not support those who have serious mental health concerns because of their years of exposure to many different types of traumatic incidents.

In addition, firefighters, both paid and volunteers, suffer from work-related gradual process injuries arising from their firefighting duties – such as cancer, asthma, cardiovascular, musculoskeletal, hearing/vision loss. Schedule 2 in the Act describes a limited range of illnesses and injuries that apply to firefighters, but there are many more that can be evidenced as a direct result of firefighting. Paid firefighters also have access to a toxicology panel to assess their ACC compensation cover if they are diagnosed with cancer. Again, all paid firefighters are covered for compensation under this section, however, it does not apply to volunteers in any way simply because they are not paid to do this work.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides for the Bill to come into force 3 months after Royal assent. The delay in commencement is to provide the Corporation with time to implement the changes made by the Bill.

Clause 3 provides that the Bill amends the Accident Corporation Act 2001.

Part 1

Cover for FENZ volunteers

Clause 4 amends section 6 of the Act, which defines terms used in the Act, to:

- include FENZ volunteers within the definition of employee for the purposes of section 28 (Work-related personal injury), section 30 (Personal injury caused by work-related gradual process, disease, or infection), and section 98 (Employer's duty to pay first week compensation):
- specify that FENZ is the employer of FENZ volunteers:
- extend the definition of employment in the case of a FENZ volunteer, to include work carried out for FENZ in a voluntary capacity and with FENZ agreement:
- insert new definitions of FENZ volunteer and FENZ personnel.

The effect of these changes is that FENZ volunteers will be treated in same way as their paid counterparts in respect of personal injuries that they may suffer while carrying out work for FENZ.

Part 2

Extended cover for mental injury and gradual process injury for FENZ personnel

Clause 5 inserts *new section 21C* to provide FENZ personnel (both paid staff as well as volunteers) with cover for mental injuries that are caused, or was contributed to, to a significant degree, by employment by FENZ.

Clauses 6 and 7 are consequential amendments.

Clause 8 inserts *new section 336AA*, which is a regulation-making power to enable the list of occupational diseases in Schedule 2 of the Act to be added to by Order in Council to ensure that the list includes diseases that FENZ personnel suffer from.

Part 3

Transitional matters

Clause 9 and the *Schedule* provide for transitional matters.

Hon Kieran McAnulty

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Accident Compensation (Extended Cover for FENZ Personnel) Amendment Act **2025**.

2 Commencement

This Act comes into force 3 months after Royal assent.

3 Principal Act

This Act amends the Accident Compensation Act 2001.

Part 1
Cover for FENZ volunteers

4 Section 6 amended (Interpretation)

- (1) In section 6, replace the definition of **employee** with:

employee—

- (a) means a natural person who receives, or is entitled to receive,—
 - (i) any amount that is treated as income from employment, as defined in paragraph (a) of the definition of income from employment in section YA 1 of the Income Tax Act 2007; or
 - (ii) any salary, wages, or other income to which section RD 3B or RD 3C of the Income Tax Act 2007 applies; and
- (b) in **sections 28, 30, and 98** includes a FENZ volunteer

- (2) In section 6, definition of **employer**, in paragraph (b), after “the Income Tax Act 2007”, insert “; and”.

- (3) In section 6, definition of **employer**, after paragraph (b), insert:

- (c) in respect of a FENZ volunteer, means FENZ (as that term is defined in section 6 of the Fire and Emergency New Zealand Act 2017)

- (4) In section 6, definition of **employment**, after paragraph (b), insert:

- (c) in the case of a FENZ volunteer, means work carried out for FENZ (as that term is defined in section 6 of the Fire and Emergency New Zealand

Act 2017), in a volunteer capacity in relation to the functions of FENZ, and with the knowledge and consent of FENZ

- (5) In section 6, insert in their appropriate alphabetical order:

FENZ personnel has the meaning given in section 6 of the Fire and Emergency New Zealand Act 2017

FENZ volunteer has the meaning given in section 6 of the Fire and Emergency New Zealand Act 2017

Part 2

Extended cover for mental injury and gradual process injury for FENZ personnel

5 New section 21C inserted (Special cover for work-related mental injury for FENZ personnel)

After section 21B insert:

21C Special cover for work-related mental injury for FENZ personnel

- (1) A person has cover for a personal injury that is a work-related mental injury if—
- (a) they are FENZ personnel; and
 - (b) they suffer the mental injury inside or outside New Zealand on or after 1 October 2008; and
 - (c) the mental injury was caused, or was contributed to, to a significant degree, by the persons's employment by FENZ.
- (2) For the purposes of this section, it is irrelevant whether or not the person is ordinarily resident in New Zealand on the date on which they suffer the mental injury (*see* section 36(1) for how the date a person suffers a mental injury is determined).
- (3) In determining whether a mental injury was caused or contributed to, to a significant degree, by a person's employment by FENZ, the following matters may be taken into account:
- (a) the duration of the employment:
 - (b) the nature of, and particular tasks involved in, the employment:
 - (c) any predisposition the person has to the mental injury:
 - (d) any activities undertaken by the person not related to the employment:
 - (e) any other matters affecting the person's health.
- (4) In this section, **significant degree** means a degree that is substantially more than material.

6 Section 28 amended (Work-related personal injury)

In section 28(4A), after “section 21B”, insert “or **21C**”.

7 Section 36 amended (Date on which person is to be regarded as suffering mental injury)

In section 36(1), replace “section 21 or 21B”, with “section 21, 21B, or **21C**”.

8 New section 336AA inserted (Schedule 2 may be amended by Order in Council to specify occupational diseases for FENZ personnel)

After section 336, insert:

336AA Schedule 2 may be amended by Order in Council to specify occupational diseases for FENZ personnel

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister add 1 or more occupational diseases to the list in Schedule 2, to include occupational diseases of a type that FENZ personnel may suffer as a result of their employment by FENZ.
- (2) The Minister must review Schedule 2 at least once every 3 years to consider whether additional diseases should be added under **subsection (1)**.
- (3) In undertaking the review required by **subsection (2)**, the Minister must consult:
 - (a) the board of FENZ;
 - (b) FENZ personnel;
 - (c) representatives of any union or membership organisation of which FENZ personnel are members.
- (4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Part 3

Transitional matters

9 Schedule 1AA amended

In **Schedule 1AA**,—

- (a) insert the Part set out in the Schedule of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Schedule
New Part 6 inserted into Schedule 1AA

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Part 6
**Provisions relating to Accident Compensation (Extended Cover for
FENZ Personnel) Amendment Act 2025**

19 Interpretation

In this Part,—

amendment Act means the Accident Compensation (Extended Cover for FENZ Personnel) Amendment Act **2025**

commencement date means the date on which the amendment Act comes into force.

20 Claims for personal injury that have been lodged but not decided

(1) This clause applies if, before the commencement date,—

- (a) a person has suffered a personal injury that is:
 - (i) a work-related mental injury described in section 21B or **21C**;
 - (ii) a work-related personal injury described in section 28;
 - (iii) a personal injury caused by work-related gradual process, disease, or infection described in section 30; and
- (b) the person is FENZ personnel; and
- (c) the person has lodged a claim with the Corporation under section 48 in respect of the personal injury; and
- (d) the Corporation has not made a decision on the claim.

(2) On or after the commencement date, the Corporation must make a decision on the claim in accordance with the Act as amended by the amendment Act.

21 Claims for personal injury that have been lodged and declined

(1) This clause applies if, before the commencement date,—

- (a) a person has suffered a personal injury that is:
 - (i) a work-related mental injury described in section 21B or **21C**;
 - (ii) a work-related personal injury described in section 28;
 - (iii) a personal injury caused by work-related gradual process, disease, or infection described in section 30; and
- (b) the person is FENZ personnel; and

- (c) the person has lodged a claim with the Corporation under section 48 in respect of the personal injury; and
 - (d) the Corporation has declined the claim.
 - (2) Within 12 months of the commencement date,—
 - (a) the person may lodge a fresh claim under section 48 in respect of the injury and the claim must be treated as if it were made within the time limit specified in section 53; and
 - (b) the Corporation must make a decision on the claim in accordance with the Act as amended by the amendment Act.
- 22 Extended time limit to lodge claims for personal injury**
- (1) This clause applies if, before the commencement date,—
 - (a) a person has suffered a personal injury that is:
 - (i) a work-related mental injury described in section 21B or **21C**;
 - (ii) a work-related personal injury described in section 28;
 - (iii) a personal injury caused by work-related gradual process, disease, or infection described in section 30; and
 - (b) the person is FENZ personnel; and
 - (c) the person has not yet lodged a claim with the Corporation under section 48 in respect of the personal injury.
 - (2) Within 12 months of the commencement date,—
 - (a) the person may lodge a claim under section 48 in respect of the injury and the claim must be treated as if it were made within the time limit specified in section 53; and
 - (b) the Corporation must make a decision on the claim in accordance with the Act as amended by the amendment Act.