

Country Fire Authority Regulations 2025

Submission to the Victorian Government

12 May 2025

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Who we are

The **Australian Lawyers Alliance (ALA)** is a national association of lawyers, academics and other professionals dedicated to protecting and promoting access to justice and equality before the law for all individuals.

Our members and staff advocate for reforms to legislation, regulations and statutory schemes to achieve fair outcomes for those who have been injured, abused or discriminated against, as well as for those seeking to appeal administrative decisions.

The ALA is represented in every state and territory in Australia. We estimate that our 1,500 members represent up to 200,000 people each year across Australia.

Our head office is located on the land of the Gadigal people of the Eora Nation. As a national organisation, the ALA acknowledges the Traditional Owners and Custodians of the lands on which our members and staff work as the First Peoples of this country.

More information about the ALA is available on our website.¹

¹ www.lawyersalliance.com.au.

Introduction

1. The ALA welcomes the opportunity to have input to the Victorian Government on the proposed Country Fire Authority Regulations 2025 ('Regulations').
2. The ALA acknowledges that feedback is only sought regarding the proposed Regulations. Having not been consulted as yet during the review process, the ALA wishes to now take this opportunity to also provide submissions regarding improvements to the Regulations that have not been proposed.
3. The ALA has many members who advise and represent Country Fire Authority (CFA) members in order to assist those CFA members in accessing their compensation entitlements. Our members are, therefore, required to interpret and apply the Regulations for the benefit of our clients, and so are well placed to comment on improvements to the Regulations.
4. The ALA submits that the Regulations require further amendment to assist in the delivery of compensation entitlements to injured CFA members.
5. The ALA requests that the regulations concerning the assessment and delivery of compensation entitlements be improved in terms of time limits and transparency. Further, that new regulations be inserted detailing a member's right to review decisions.

Time limits

6. The ALA appreciates the intention of the insertion of the new Regulation 98 and the objectives of delivering compensation to injured CFA members as expeditiously as possible. The ALA is concerned that "expeditiously" is not defined throughout the Regulations and that no timeframes are in place to ensure that compensation paid is, in fact, paid as soon as possible.
7. Not prescribing any time limits on the CFA Board ('the Authority') can lead to significant delays in the delivery of benefits for CFA members.
8. Regulation 103 details the process of how a CFA member is to lodge a claim for compensation, yet it does not provide a timeframe during which the member can expect to have their claim accepted or rejected.

9. Additionally, Regulation 103(7) allows the Chief Executive Officer to request further information. However, no timeframe is placed on the timing of the request, the timing of the member to provide the requested information, or on the timing on the determination of the claim after receipt of the further information.
10. Regulation 106 requires the Authority to enquire into the circumstances of the claim and to determine the claim as soon as possible. 'As soon as possible' is an interminable timeframe in term of expectations for an injured CFA member. This Regulation also requires the Authority to give consideration to various sections of the *Accident Compensation Act 1985 (Vic)* ('ACA') and the *Workplace Injury Rehabilitation and Compensation Act 2013* ('WIRCA') – however, section 75 of the WIRCA is not one of those sections.
11. Section 75 of the WIRCA requires a decision to be made within 28 days and details consequences for failure to do so, including deemed acceptance of the claim.
12. **The ALA recommends that a time limit of 28 days be added to the Regulations, with deemed acceptance if this timeframe is not adhered to (as in the WIRCA).**
13. Similarly, Regulation 116 regarding a request to alter the amount of weekly payments imposes no timeframe for a decision to be made in response.
14. An ALA member has shared with the ALA an instance where a CFA member's weekly payments entitlement was erroneously determined based on wage information from earnings after suffering the injury, rather than before. This resulted in payment of an amount less than \$50 per week, and an underpayment of approximately \$1,150 per week. A review was requested pursuant to Regulation 116 but, as there are no timeframes stipulated for the Authority to undertake such a review, the Authority took 6 months to deliver a decision. The financial hardship suffered by the CFA member during this period was severe.
15. In this example, the CFA member was back paid the correct amount of their entitlement but only to the date the review was requested. Sub regulation 3 gives the Authority discretion to specify the commencement date of the new weekly payment amount.
16. **The ALA submits that in circumstances where the Authority has made an error that financially disadvantages a CFA member and subsequently accepts an application to review this decision, the back payment should be made from the date of the claim or the date the error was made.**

17. The ALA recommends that Regulation 116(3) be amended to read:

(3) **Within 28 days** the Authority must—

- (a) accept or reject the application; and
- (b) give the member a written statement of its decision and the reasons for its decision; and
- (c) if the Authority accepts the application, specify the new weekly payment amount and commencement date (if applicable).

18. The ALA recommends that a new Regulation 116(4) be inserted:

(4) The commencement date in (3)(c) is to be the date from when the increased amount was payable.

19. Acceptance or rejection of the application within this reasonable timeframe, plus back payment of the full entitlement, will reduce the financial stress and hardship caused to CFA members whose weekly payment amount is determined incorrectly.

Transparency

20. The ALA submits that there is a significant lack of transparency in the amounts and types of compensation available to injured CFA members.

21. Members who suffer a personal injury in the course of, or arising out of, performing service as a member are entitled to compensation pursuant to Regulation 99. The Regulations detail how a CFA member can lodge a claim for weekly payments and medical expenses and how these entitlements may be adjusted. However, the Regulations are silent on compensation entitlements, such as lump sum payments for permanent disability.

22. Further, the definition of ‘compensation’ in the Regulations is not of any assistance.

23. Apart from deferring to the *ACA* and *WIRCA*, the Regulations are silent on the right to claim compensation for pain and suffering or impairment. It is only through experience and the exchange of information that ALA members are aware of non-economic loss entitlements and how to pursue these for our clients. Lawyers acting on behalf of the Authority appear to have guidelines available that are used to determine amounts payable, but this information is not publicly available.

24. **The ALA submits that regulations need to be introduced clearly identifying the benefits available, how these benefits are assessed, the amounts of compensation payable, and payment of members' legal costs. Allowance for indexation on all amounts is also recommended.**

Merits review

25. **The ALA submits that the Regulations must be amended to provide an avenue for injured members to dispute decisions or failures of the Authority in determining their compensation entitlements.**
26. As it currently stands, the only way for CFA members to dispute a decision of the Authority is via an application for judicial review of that decision in the Supreme Court of Victoria. This is a lengthy and costly exercise.
27. A scheme that is administered by the Authority with no provision to review their decision other than for legal error creates an unfair power imbalance at a disadvantage to volunteers. If a CFA member does not seek legal advice regarding a decision made about their entitlements, they are unlikely to be aware that their only right of appeal is to bring a case for judicial review. CFA members are also unlikely to know of the 60-day time limit to bring such a case.
28. The ALA is not aware of any other compensation scheme that does not provide an avenue for a merits review of decisions. Pursuant to the current and proposed new Regulations, the Authority is the sole administrator of CFA members' compensation, with no independent checks and balances on how that compensation is delivered.
29. In the matter of *Sumner v Country Fire Authority* [2024] VSC 403, Her Honour Richards J noted at [57]:²

...the evident purpose of Pt 6, Div 1 is to establish a volunteer compensation scheme for the benefit of volunteers who are injured or whose property is damaged in the course of their service. In the absence of the scheme, volunteers who provide fire fighting services in country Victoria would not have access to the no-fault compensation entitlements available to paid staff.

² *Sumner v Country Fire Authority* [2024] VSC 403 (10 July 2024) <<https://jade.io/article/1081802>>.

30. And at [58], Her Honour Richards J noted:³

A secondary purpose of Pt 6, Div 1 is to assist the CFA to achieve its objective of supporting 'the effective and sustainable recruitment, development and retention of volunteer officers and members' in order to provide a fully volunteer fire fighting service. The volunteer compensation scheme is an organisational arrangement designed to 'encourage, maintain and strengthen the capacity' of volunteers to provide the CFA's services.... All of these objectives would be more difficult to achieve if volunteers did not have the comfort of knowing that, if they are injured in the course of their service, they are entitled to compensation including their medical and like expenses.

31. CFA members deserve a compensation scheme that is not only adequate, but is also clear, transparent and accessible for all.

Conclusion

32. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input to the Victorian Government on the proposed Country Fire Authority Regulations 2025.

33. The ALA is available to provide further assistance to the Victorian Government on the issues raised in this submission.



Susan Accary

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Australian Lawyers Alliance

³ Ibid.