



Queensland

Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2021

Act No. 10 of 2021

**An Act to amend the Workers' Compensation and Rehabilitation Act 2003
and the Workers' Compensation and Rehabilitation Regulation 2014 for
particular purposes**

[Assented to 20 May 2021]



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The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2021*.

Part 2 Amendment of Workers' Compensation and Rehabilitation Act 2003

2 Act amended

This part amends the *Workers' Compensation and Rehabilitation Act 2003*.

3 Insertion of new ch 1, pt 4, div 6, sdiv 3BA

Chapter 1, part 4, division 6—

insert—

Subdivision 3BA PTSD sustained by first responders and other particular persons

36EA Definitions for subdivision

In this subdivision—

eligible employee see section 36EC.

first responder see section 36EB.

[s 3]

relevant volunteer means a person mentioned in division 3, subdivision 1 who is covered under a contract of insurance entered into with WorkCover for that subdivision.

36EB Meaning of *first responder*

A person is employed as a ***first responder*** if—

- (a) the person is a worker, or a relevant volunteer, employed in an occupation or profession prescribed by regulation; and
- (b) the person's employment requires the person to respond to incidents—
 - (i) that are life-threatening or otherwise traumatic; and
 - (ii) for which time may be critical to prevent actual or potential death or injury to persons, or to prevent or minimise damage to property or the environment.

36EC Meaning of *eligible employee*

(1) A person is employed as an ***eligible employee*** if—

- (a) the person is a worker, or a relevant volunteer, employed by or in an entity prescribed by regulation; and
- (b) the person's employment requires the person to experience repeated or extreme exposure to the graphic details of traumatic incidents by—
 - (i) attending the scenes of traumatic incidents; or

Example of a person for subparagraph (i)—

a person whose employment requires the person to recover human remains

- (ii) experiencing traumatic incidents as they happen to other persons; or

Example of a person for subparagraph (ii)—

a fire communications officer whose employment requires the officer to respond to calls for information and advice in emergency situations

- (iii) investigating, reviewing or assessing traumatic incidents that have happened to other persons.

Example of a person for subparagraph (iii)—

a person whose employment requires the person to investigate complaints of child sexual abuse

- (2) In this section—

traumatic incident includes an incident that exposes a person to, or to the threat of, any of the following—

- (a) death;
- (b) serious injury;
- (c) sexual violence.

36ED Presumption of injury

- (1) This section applies in relation to a person who—
 - (a) is diagnosed by a psychiatrist, in the way prescribed by regulation, as having post-traumatic stress disorder; and
 - (b) at any time before the diagnosis, was employed as a first responder or an eligible employee.
- (2) For the purposes of an entitlement to compensation, the post-traumatic stress disorder is taken to be an injury.
- (3) Subsection (2) applies despite any evidence that

[s 4]

the post-traumatic stress disorder arose out of, or in the course of, a circumstance mentioned in section 32(5)(a), (b) or (c).

- (4) However, subsection (2) does not apply if it is proved that—
- (a) the post-traumatic stress disorder did not arise out of, or in the course of, the person's employment as a first responder or an eligible employee; or
 - (b) the person's employment as a first responder or an eligible employee was not a significant contributing factor to the disorder.

4 Insertion of new s 135A

After section 135—

insert—

135A Examination of particular claimants by psychiatrist

- (1) This section applies if—
- (a) a person makes an application for compensation for an injury that is post-traumatic stress disorder; and
 - (b) at any time before the claimant was diagnosed as having the disorder, the claimant was employed as a first responder or an eligible employee; and
 - (c) there is no evidence that the claimant has been diagnosed by a psychiatrist as having the disorder.
- (2) The insurer must—
- (a) arrange for the claimant to be examined by a psychiatrist to obtain a diagnosis; and
 - (b) pay for—

- (i) the examination by the psychiatrist;
and
 - (ii) any travel costs incurred by the claimant in attending the examination that the insurer considers are necessary and reasonable.
- (3) However, subsection (2) does not apply if the insurer decides under section 134 to allow the application.
- (4) This section does not limit section 135.

5 Insertion of new ch 36

After chapter 35—

insert—

Chapter 36 Transitional provision for Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2021

742 Application of ch 1, pt 4, div 6, sdiv 3BA and s 135A

The following provisions apply only in relation to an application for compensation lodged on or after the commencement—

- (a) chapter 1, part 4, division 6, subdivision 3BA;

[s 6]

(b) section 135A.

6 Amendment of sch 6 (Dictionary)

Schedule 6—

insert—

eligible employee see section 36EC.

first responder see section 36EB.

psychiatrist means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession as a specialist registrant in the specialty of psychiatry, other than as a student.

relevant volunteer, for chapter 1, part 4, division 6, subdivision 3BA, see section 36EA.

Part 3 Amendment of Workers' Compensation and Rehabilitation Regulation 2014

7 Regulation amended

This part amends the *Workers' Compensation and Rehabilitation Regulation 2014*.

8 Insertion of new ss 144A–144C

Before section 145—

insert—

144A First responders—Act, s 36EB

For section 36EB(a) of the Act, each of the occupations or professions mentioned in schedule 6A is prescribed.

144B Eligible employees—Act, s 36EC

For section 36EC(1)(a) of the Act, each of the entities mentioned in schedule 6B is prescribed.

144C Presumption of injury—Act, s 36ED

(1) For section 36ED(1)(a) of the Act, the way prescribed is using the diagnostic criteria provided under DSM 5 for post-traumatic stress disorder.

(2) In this section—

DSM 5 means the 'Diagnostic and Statistical Manual of Mental Disorders', 5th edition, published by the American Psychiatric Association in 2013.

9 Insertion of new schs 6A and 6B

After schedule 6—

insert—

Schedule 6A First responders

section 144A

- 1 an ambulance officer under the *Ambulance Service Act 1991* who is classified by the Queensland Ambulance Service as a paramedic of any type
- 2 an authorised officer under the *Child Protection Act 1999*
- 3 a corrective services officer under the *Corrective Services Act 2006*
- 4 a fire service officer under the *Fire and Emergency Services Act 1990*

[s 9]

- 5 a member of the State Emergency Service or an emergency service unit under the *Fire and Emergency Services Act 1990*
- 6 a member of a rural fire brigade registered under the *Fire and Emergency Services Act 1990*, section 79
- 7 a volunteer firefighter or volunteer fire warden employed by the authority responsible for the management of the State's fire services
- 8 a police officer or police recruit under the *Police Service Administration Act 1990*
- 9 a youth justice staff member within the meaning of the *Youth Justice Act 1992*, section 59B
- 10 a doctor or nurse employed in any of the following areas—
 - emergency and trauma care
 - acute care
 - critical care
 - high-dependency care
- 11 an occupation or profession performed in the private sector that corresponds to an occupation or profession mentioned in item 1, 3 or 4
- 12 an occupation or profession performed by a local government employee within the meaning of the *Local Government Act 2009* that corresponds to an occupation or profession mentioned in item 1 or 4
- 13 a coal mine worker within the meaning of the *Coal Mining Safety and Health Act 1999* who is appropriately qualified to perform a rescue function at a coal mine

-
- 14 a worker within the meaning of the *Mining and Quarrying Safety and Health Act 1999* who is appropriately qualified to perform a rescue function at a mine

Schedule 6B Eligible employees

section 144B

- 1 the department in which the *Ambulance Service Act 1991* is administered
- 2 the department in which the *Child Protection Act 1999* is administered
- 3 the department in which the *Corrective Services Act 2006* is administered
- 4 the department in which the *Fire and Emergency Services Act 1990* is administered
- 5 the department in which the *Police Service Administration Act 1990* is administered
- 6 the department in which the *Youth Justice Act 1992* is administered

10 Amendment of sch 13 (Dictionary)

Schedule 13—

insert—

nurse means a person registered under the Health Practitioner Regulation National Law to practise in the nursing profession.

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