



Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2020



Queensland

Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2020

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2020

A Bill

for

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

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2020*. 4
5

Part 2 Amendment of Workers' Compensation and Rehabilitation Act 2003 6
7
8

Clause 2 Act amended 9

This part amends the *Workers' Compensation and Rehabilitation Act 2003*. 10
11

Clause 3 Insertion of new ch 1, pt 4, div 6, sdiv 3BA 12

Chapter 1, part 4, division 6— 13

insert— 14

Subdivision 3BA PTSD sustained by first responders and other particular persons 15
16
17

36EA Definitions for subdivision 18

In this subdivision— 19

eligible employee see section 36EC. 20

first responder see section 36EB. 21

relevant volunteer means a person mentioned in 1
division 3, subdivision 1 who is covered under a 2
contract of insurance entered into with 3
WorkCover for that subdivision. 4

36EB Meaning of *first responder* 5

A person is employed as a *first responder* if— 6

- (a) the person is a worker, or a relevant 7
volunteer, employed in an occupation or 8
profession prescribed by regulation; and 9
- (b) the person's employment requires the 10
person to respond to incidents— 11
 - (i) that are life-threatening or otherwise 12
traumatic; and 13
 - (ii) for which time may be critical to 14
prevent actual or potential death or 15
injury to persons, or to prevent or 16
minimise damage to property or the 17
environment. 18

36EC Meaning of *eligible employee* 19

(1) A person is employed as an *eligible employee* if— 20

- (a) the person is a worker, or a relevant 21
volunteer, employed by or in an entity 22
prescribed by regulation; and 23
- (b) the person's employment requires the 24
person to experience repeated or extreme 25
exposure to the graphic details of traumatic 26
incidents by— 27
 - (i) attending the scenes of traumatic 28
incidents; or 29

Example of a person for subparagraph (i)— 30

a person whose employment requires the 31
person to recover human remains 32

[s 3]

- (ii) experiencing traumatic incidents as they happen to other persons; or 1
2
Example of a person for subparagraph (ii)— 3
a fire communications officer whose 4
employment requires the officer to respond 5
to calls for information and advice in 6
emergency situations 7
- (iii) investigating, reviewing or assessing 8
traumatic incidents that have happened 9
to other persons. 10
Example of a person for subparagraph (iii)— 11
a person whose employment requires the 12
person to investigate complaints of child 13
sexual abuse 14
- (2) In this section— 15
traumatic incident includes an incident that 16
exposes a person to, or to the threat of, any of the 17
following— 18
- (a) death; 19
(b) serious injury; 20
(c) sexual violence. 21
- 36ED Presumption of injury** 22
- (1) This section applies in relation to a person who— 23
- (a) is diagnosed by a psychiatrist, in the way 24
prescribed by regulation, as having 25
post-traumatic stress disorder; and 26
- (b) at any time before the diagnosis, was 27
employed as a first responder or an eligible 28
employee. 29
- (2) For the purposes of an entitlement to 30
compensation, the post-traumatic stress disorder 31
is taken to be an injury. 32
- (3) Subsection (2) applies despite any evidence that 33

	the post-traumatic stress disorder arose out of, or	1
	in the course of, a circumstance mentioned in	2
	section 32(5)(a), (b) or (c).	3
(4)	However, subsection (2) does not apply if it is	4
	proved that—	5
(a)	the post-traumatic stress disorder did not	6
	arise out of, or in the course of, the person's	7
	employment as a first responder or an	8
	eligible employee; or	9
(b)	the person's employment as a first responder	10
	or an eligible employee was not a significant	11
	contributing factor to the disorder.	12
Clause 4	Insertion of new s 135A	13
	After section 135—	14
	<i>insert—</i>	15
	135A Examination of particular claimants by	16
	psychiatrist	17
(1)	This section applies if—	18
(a)	a person makes an application for	19
	compensation for an injury that is	20
	post-traumatic stress disorder; and	21
(b)	at any time before the claimant was	22
	diagnosed as having the disorder, the	23
	claimant was employed as a first responder	24
	or an eligible employee; and	25
(c)	there is no evidence that the claimant has	26
	been diagnosed by a psychiatrist as having	27
	the disorder.	28
(2)	The insurer must—	29
(a)	arrange for the claimant to be examined by a	30
	psychiatrist to obtain a diagnosis; and	31
(b)	pay for—	32

[s 5]

	(i) the examination by the psychiatrist; and	1 2
	(ii) any travel costs incurred by the claimant in attending the examination that the insurer considers are necessary and reasonable.	3 4 5 6
	(3) However, subsection (2) does not apply if the insurer decides under section 134 to allow the application.	7 8 9
	(4) This section does not limit section 135.	10
Clause 5	Insertion of new ch 36	11
	After chapter 35—	12
	<i>insert—</i>	13
	Chapter 36 Transitional provision for Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2020	14 15 16 17 18 19 20 21
	742 Application of ch 1, pt 4, div 6, sdiv 3BA and s 135A	22 23
	The following provisions apply only in relation to an application for compensation lodged on or after the commencement—	24 25 26
	(a) chapter 1, part 4, division 6, subdivision 3BA;	27 28

	(b) section 135A.	1
Clause 6	Amendment of sch 6 (Dictionary)	2
	Schedule 6—	3
	<i>insert—</i>	4
	<i>eligible employee</i> see section 36EC.	5
	<i>first responder</i> see section 36EB.	6
	<i>psychiatrist</i> 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.	7 8 9 10 11
	<i>relevant volunteer</i> , for chapter 1, part 4, division 6, subdivision 3BA, see section 36EA.	12 13
Part 3	Amendment of Workers' Compensation and Rehabilitation Regulation 2014	14 15 16
Clause 7	Regulation amended	17
	This part amends the <i>Workers' Compensation and Rehabilitation Regulation 2014</i> .	18 19
Clause 8	Insertion of new ss 144A–144C	20
	Before section 145—	21
	<i>insert—</i>	22
	144A First responders—Act, s 36EB	23
	For section 36EB(a) of the Act, each of the occupations or professions mentioned in schedule 6A is prescribed.	24 25 26

[s 9]

144B Eligible employees—Act, s 36EC 1

For section 36EC(1)(a) of the Act, each of the 2
entities mentioned in schedule 6B is prescribed. 3

144C Presumption of injury—Act, s 36ED 4

(1) For section 36ED(1)(a) of the Act, the way 5
prescribed is using the diagnostic criteria 6
provided under DSM 5 for post-traumatic stress 7
disorder. 8

(2) In this section— 9

DSM 5 means the ‘Diagnostic and Statistical 10
Manual of Mental Disorders’, 5th edition, 11
published by the American Psychiatric 12
Association in 2013. 13

Clause 9 Insertion of new schs 6A and 6B 14

After schedule 6— 15

insert— 16

Schedule 6A First responders 17

section 144A 18

1 an ambulance officer under the *Ambulance* 19
Service Act 1991 who is classified by the 20
Queensland Ambulance Service as a 21
paramedic of any type 22

2 an authorised officer under the *Child* 23
Protection Act 1999 24

3 a corrective services officer under the 25
Corrective Services Act 2006 26

4 a fire service officer under the *Fire and* 27
Emergency Services Act 1990 28

5	a member of the State Emergency Service or an emergency service unit under the <i>Fire and Emergency Services Act 1990</i>	1 2 3
6	a member of a rural fire brigade registered under the <i>Fire and Emergency Services Act 1990</i> , section 79	4 5 6
7	a volunteer firefighter or volunteer fire warden employed by the authority responsible for the management of the State's fire services	7 8 9 10
8	a police officer or police recruit under the <i>Police Service Administration Act 1990</i>	11 12
9	a youth justice staff member within the meaning of the <i>Youth Justice Act 1992</i> , section 59B	13 14 15
10	a doctor or nurse employed in any of the following areas—	16 17
	• emergency and trauma care	18
	• acute care	19
	• critical care	20
	• high-dependency care	21
11	an occupation or profession performed in the private sector that corresponds to an occupation or profession mentioned in item 1, 3 or 4	22 23 24 25

Schedule 6B Eligible employees 26

section 144B 27

1	the department in which the <i>Ambulance Service Act 1991</i> is administered	28 29
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[s 10]

2	the department in which the <i>Child Protection Act 1999</i> is administered	1 2
3	the department in which the <i>Corrective Services Act 2006</i> is administered	3 4
4	the department in which the <i>Fire and Emergency Services Act 1990</i> is administered	5 6 7
5	the department in which the <i>Police Service Administration Act 1990</i> is administered	8 9
6	the department in which the <i>Youth Justice Act 1992</i> is administered	10 11

Clause 10	Amendment of sch 13 (Dictionary)	12
	Schedule 13—	13
	<i>insert—</i>	14
	<i>nurse</i> means a person registered under the Health Practitioner Regulation National Law to practise in the nursing profession.	15 16 17

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