



Legislative win for first responders and emergency workers in Queensland workers' compensation changes

Date: Monday June 28, 2021

On 12 May 2021, Queensland Parliament passed legislation which amended the *Workers' Compensation and Rehabilitation Act 2003* (Qld) ("the Act"). These changes will allow easier access to compensation for first responders and other emergency workers who sustain a post-traumatic stress disorder ("PTSD") injury during the course of their employment.

Hall Payne Lawyers welcomes this change to the legislation and the benefit it brings to those [accessing compensation](#) during a vulnerable and difficult time in their lives.

What changes were made?

The amendments to the Act include the insertion of new subdivision 3BA to deal solely with PTSD sustained by first responders and other emergency workers.

The new amendments change the requirements for PTSD to be considered a work-related injury. All that is now required for first responders and emergency workers will be:

1. a diagnosis of PTSD by a psychiatrist; and
2. confirmation that the worker was employed at any time before the diagnosis, as a "first responder" or "eligible employee".

If those two requirements are met, then the PTSD will be presumed to be a work-related injury ("the presumption").

This removes the burden of workers having to prove their PTSD is a work-related injury. In the case of PTSD, the reliving of the incident and/or incidents can be traumatic in and of itself and can be incredibly distressing for workers.

Who are considered first responders?

The presumption will apply to "first responders" who are classified as the following particular workers:

1. Ambulance officers;
2. Police officers or recruits;
3. Child Protection officers (authorised officers);
4. Corrective Services officers;
5. State Emergency Services members;
6. Firefighters, including rural fire brigades and volunteer firefighters;
7. Youth Justice staff members;
8. Doctors and nurses working in emergency, acute, critical and high dependency care;
9. Coal mine workers qualified to perform rescue functions at mines.

For the presumption to apply, the first responder's employment must have required the worker to respond to:

1. incidents that are life threatening or otherwise traumatic; and
2. 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.

Many of the above listed workers will fulfil this requirement by the very nature of their employment and their day to day work.

Who are considered other eligible employees?

Other workers eligible for the benefits of the presumptive legislation include those employed by one of the following government departments:

1. Ambulance Services;
2. Child Protection Services;
3. Corrective Services;
4. Fire and Emergency Services;
5. Police Administration; and
6. Youth Justice.

Not all the above workers will be exposed to incidents which will give rise to PTSD and so a further requirement is imposed on this category of workers.

The above employees will be eligible to the presumption where their employment requires them to experience '*repeated or extreme exposure to graphic details of traumatic incidents*' by any of the following circumstances:

1. Attending the scenes of traumatic incidents; or
2. Experiencing traumatic incidents as they happen to other persons; or
3. Investigating, reviewing or assessing traumatic incidents that have happened to other persons.

This category of employee will include Emergency Medical Dispatchers, and Child Protection workers for example, and other employees who will invariably be exposed to traumatic material.

The effect of the amendments

The result of the legislative amendments is that a significant hurdle to the acceptance of an emergency workers' compensation claim for PTSD has now been removed. The presumption will apply if the above requirements are met (and those requirements will generally be easy for the injured worker to meet) unless it is proved that the PTSD did not arise out of or in the course of the injured worker's employment.

Studies have consistently shown that a significant percentage of first responders and emergency workers are at high risk of sustaining a psychological injury, including PTSD. These workers often put their lives and mental health on the line for the benefit of the general public and these amendments go a long way to ensuring that the process of making a claim for compensation and receiving the treatment they require is just that bit easier.

Get help from a worker's compensation lawyer

If you require advice or assistance in relation to a work injury, please contact Hall Payne Lawyers.

Phone: [1800 659 114](tel:1800659114)

Email: general@hallpayne.com.au

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