



Queensland

# **Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2020**





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# Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2020

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**2020**

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**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***

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[s 1]

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**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

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*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

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

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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
<b>Clause 4</b>	
<b>Insertion of new s 135A</b>	13
After section 135—	14
<i>insert—</i>	15
<b>135A Examination of particular claimants by</b>	16
<b>psychiatrist</b>	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

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	(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
<b>Clause 5</b>	<b>Insertion of new ch 36</b>	11
	After chapter 35—	12
	<i>insert—</i>	13
	<b>Chapter 36 Transitional provision for Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2020</b>	14 15 16 17 18 19 20 21
	<b>742 Application of ch 1, pt 4, div 6, sdiv 3BA and s 135A</b>	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

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	(b) section 135A.	1
<b>Clause 6</b>	<b>Amendment of sch 6 (Dictionary)</b>	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
<b>Part 3</b>	<b>Amendment of Workers' Compensation and Rehabilitation Regulation 2014</b>	14 15 16
<b>Clause 7</b>	<b>Regulation amended</b>	17
	This part amends the <i>Workers' Compensation and Rehabilitation Regulation 2014</i> .	18 19
<b>Clause 8</b>	<b>Insertion of new ss 144A–144C</b>	20
	Before section 145—	21
	<i>insert—</i>	22
	<b>144A First responders—Act, s 36EB</b>	23
	For section 36EB(a) of the Act, each of the occupations or professions mentioned in schedule 6A is prescribed.	24 25 26

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**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

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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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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

<b>Clause 10</b>	<b>Amendment of sch 13 (Dictionary)</b>	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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