



Amendments to the *Safety, Rehabilitation and Compensation Act 1988*

The *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* amends the *Safety, Rehabilitation and Compensation Act 1988* (the Act) to introduce presumptive liability provisions that will streamline the workers' compensation claims process for first responders covered by the Act who sustain post-traumatic stress disorder (PTSD). The amendments also introduce a new power that will require Comcare to prepare a Guide that must be complied with when exercising the power to arrange rehabilitation assessments and independent medical examinations (IMEs).

What has changed?

The amendments provide that if a first responder covered by the Act is diagnosed with PTSD by a legally qualified medical practitioner or psychologist in accordance with the *Diagnostic and Statistical Manual of Mental Disorders* (Fifth edition), they will not be required to prove that their employment significantly contributed to their condition when making a workers' compensation claim.

Australian Federal Police employees, Australian Border Force employees, ambulance officers (including paramedics), firefighters, emergency service communications operators, and any other members of an emergency service within the meaning of that term in the *Emergencies Act 2004* (ACT) are covered by the presumption. Under the changes the Minister for Employment and Workplace Relations may also declare additional classes of employees to be covered by the presumption if satisfied that the incidence of PTSD among that class of employee is significantly greater than the incidence of PTSD among the general public.

The changes also introduce a power that requires Comcare to prepare the 'Guide for Arranging Rehabilitation Assessments and Requiring Examinations' (the Guide), in consultation with the Safety, Rehabilitation and Compensation Commission, and for approval by the Minister for Employment and Workplace Relations. The Guide must be complied with when exercising the power to arrange rehabilitation assessments and when requiring medical examinations.

What do these changes mean?

The changes are intended to provide a faster and more streamlined claims process which may reduce stress and trauma for first responders when making a workers' compensation claim in relation to PTSD.

Employees not eligible for the presumption will still be able to access workers' compensation under existing arrangements.

The amendments will require determining authorities and rehabilitation authorities to comply with the Guide when exercising the power to arrange rehabilitation assessments and when requiring medical examinations from the date of its commencement. The Guide will include requirements for sources of information in relation to the employee, frequency of, and circumstances which necessitate a direction to undergo an independent medical examination (IME), and qualifications and employee views of the person or panel selected to conduct a rehabilitation assessment or IME.

When will these changes come into effect?

The presumptive provisions for first responders with PTSD commenced on 15 December 2023.

Amendments requiring the Guide to be prepared will commence on 15 June 2024 to allow time for the Guide to be developed by Comcare and considered by the Minister.

For more information on the Closing Loopholes legislation, visit: <https://www.dewr.gov.au/workplace-relations>