



SRC Act - Presumptive workers' compensation provisions for first responders

ACTU submission on the Department of Employment and
Workplace Relations Stakeholder Consultation Issues Paper

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Introduction

About the ACTU

Since its formation in 1927, the ACTU has been the peak trade union body in Australia. It has played the leading role in advocating for, and winning the improvement of working conditions, including on almost every Commonwealth legislative measure concerning employment conditions and trade union regulation. The ACTU has also appeared regularly before the Fair Work Commission and its statutory predecessors, in numerous high-profile test cases, as well as annual national minimum and award wage reviews.

The ACTU is Australia's sole peak body of trade unions, consisting of affiliated unions and state and regional trades and labour councils. There are currently 43 ACTU affiliates who together have over 1.7 million members who are engaged across a broad spectrum of industries and occupations in the public and private sector.

ACTU affiliates represent workers covered by the SRC Act in both premium paying employers and Licensees.

Summary

The ACTU and affiliates welcome the Federal Government's commitment to take action on the 2018 Senate Education and Employment References Committee report, *The People behind 000: mental health of our first responders*.

The ACTU is supportive of an expansion of the definition of "first responder" and to that end would appreciate that opportunity to talk with Departmental officers with the view to making a subsequent submission on the definition.

In Principle Support

1. The ACTU is very supportive of any measures that ensure workers who have been injured/made ill through the course of their employment have easy access to benefits and payments which acknowledge that their employment has been detrimental to their health and safety and that any administrative processes must not exacerbate the injury/illness or impede their recovery.

2. Unions believe that after sustaining a physical or psychological work-related injury, all workers must be entitled to comprehensive and quality rehabilitation services and to return to suitable and decent employment. Further, injured workers must be entitled to compensation that restores their health and employment as close as possible to that enjoyed prior to their injury, including full access to superannuation and leave entitlements.
3. Workers' compensation should be available on a no-fault basis where an injury 'arises out of or in the course of employment', even where it is the aggravation of an existing injury or disease.
4. Australian Unions believe all workers' compensation jurisdictions must regularly update their Deemed Diseases lists in accordance with Safe Work Australia (SWA) *Deemed Diseases in Australia* report. This includes updates to ensure workers who suffer Post Traumatic Stress Disorder (PTSD) are covered by presumptive legislation to ensure that claims are dealt with efficiently and do not contribute to workers having to relive these experiences as part of a claims process.

Post-Traumatic Stress Disorder (PTSD)

5. PTSD is a psychiatric disorder that occurs in people that have experienced or witnessed a traumatic event such as serious injury, death, threat of violence, sexual violence, rape or natural disaster. Exposure to these events may be first-hand or indirect (vicarious) and may occur after listening to recounts of trauma, looking at material (videos, case files) or responding to traumatic events.
6. PTSD diagnosis is distinguishable from many other presumptive occupational diseases as it can **only** be diagnosed following a traumatic event. This contrasts with other diseases where the clinical diagnosis is clear but the exposure is presumed to be work-related. The SWA Deemed Diseases report refers to DSM-5 which requires the specific linking to the traumatic or stressful event as a diagnostic criterion when diagnosing PTSD. As the worker will need to detail the exposure it will be clear to the medical practitioner that the PTSD is work-related.

Scope

7. There is a range of work roles both within licensees and premium payers with potential exposure to trauma and vicarious trauma – these include, but are not limited to, emergency service workers, investigators, triple zero workers, Services Australia, nurses etc.
8. Unions support a broad scope that recognises that many workers covered by the SRC Act may be exposed to trauma and vicarious trauma during the course of their employment. Unions believe that any worker covered by the SRC Act that makes a claim for PTSD should be afforded presumptive rights.
9. The ACTU and affiliates would welcome the opportunity to discuss the scope with representatives of the Department.

Conclusion

10. The ACTU supports presumptive workers' compensation for a broad scope of workers diagnosed with PTSD.
11. The ACTU would appreciate an update on the progress on all the Recommendations from the Senate inquiry.¹

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https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/Mentalhealth/Government_Response

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