

## DRAFT SECOND READING SPEECH

HON SARAH COURTNEY MP

### *Workers Rehabilitation and Compensation Amendment (Presumption as to Cause of Disease) Bill 2019*

*\*check Hansard for delivery\**

Madam Speaker, I move that the Bill now be read a second time.

The purpose of this Bill is to amend the *Workers Rehabilitation and Compensation Act 1988* to include a rebuttable presumption that Post-Traumatic Stress Disorder suffered by public sector workers and volunteer first responders, is work related for the purpose of workers' compensation.

The insertion of presumption will shift the onus of proof from the worker to the employer. Where presumption applies, it will be assumed in the first instance, that the injury is work-related, unless there is evidence presented by the employer to establish that the cause of the injury was not related to work.

The Bill also removes the requirement for the Ministerial review of workers compensation provisions relating to post-traumatic stress disorder because that review has been completed in accordance with section 162A of the Act.

The report of the statutory Ministerial review was tabled in both houses on the 25<sup>th</sup> of September last year when my colleague, Minister Barnett, announced that after careful consideration of the report, the Government would be progressing reform to the *Workers Rehabilitation and Compensation Act* to include presumption for public sector workers and volunteer first responders suffering from PTSD.

Madam Speaker, I am very proud to table this Bill today, which will make Tasmania the first jurisdiction in Australia to introduce presumption for PTSD suffered by public sector workers and volunteer first responders.

It demonstrates the Government acknowledges the risk that public sector workers, particularly frontline workers, experience in the course of their duties across the State, and is a strong commitment that we will support people when they are injured and encourage them to seek the assistance they need to recover as quickly as possible.

In legislating for the presumption today, the Hodgman Liberal Government is recognising that PTSD is an occupational injury that should be treated the same as any other injury.

We are working to reduce the stigma that is often associated with mental health conditions, and may stop workers from disclosing their injury, and importantly seek the necessary treatment.

Claiming workers' compensation can be a daunting process, especially if the workplace injury relates to mental health.

There is substantial evidence demonstrating that the process to make a claim for compensation when workers are required to re-live their traumatic experiences, sometimes on multiple occasions, can exacerbate workers' psychological injuries.

PTSD may occur as the result of cumulative traumatic experiences over decades of service, which is commonly experienced by our first responders, so identifying a single incident that resulted in PTSD can not only exacerbate the injury, but also be impossible to pinpoint.

Additionally, PTSD is a particularly complex condition to diagnose, especially where it is a result of cumulative exposure to incidents. As such, it may be difficult for workers to navigate the workers' compensation process to have PTSD claims approved.

This can be a huge burden at a time when the person is suffering a psychological injury, which is why the presumption aims to remove this burden on injured workers.

Reversing the burden of proof will not introduce new entitlement.

Instead, it will allow affected workers easier and more timely access to necessary assistance and compensation, while leaving the opportunity for evidence-based rebuttal open to the employer to dispute claims.

Madam Speaker, the Government has decided to bring this Bill forward after carefully considering the report of the Ministerial review relating to establishing entitlements under the *Workers Rehabilitation and Compensation Act* for workers suffering PTSD, and the decision to legislate for the presumption for public sector workers and first responders affected by PTSD.

I will be upfront in acknowledging today that the statutory review recommended presumption was not necessary due to the low rate of refusal of compensation claims for PTSD; however, the Government has decided to legislate presumption for public sector workers and first responders affected by PTSD.

We are proposing this amendment to create an objective and accessible pathway to workplace support, early intervention and effective treatment.

In making this decision, the Government considered all of the review's findings especially the social value that could arise from presumptive legislation.

The presumption will reduce stigma surrounding mental health and perceived impact on career prospects and judgments from others.

A broad range of public sector roles are noted in the report as being at a higher risk of PTSD.

These include our first responders, front-line medical staff, medical and health care professionals, train drivers, disability and youth support workers, teachers, prison officer, child care workers and child protection workers, and national parks and wildlife officers.

This is why the presumption will apply to all public sector workers.

Accordingly, the Bill defines 'relevant workers', being a worker who is employed by:

- the Crown or appointed under an Act of the State;
- a Government Business Enterprise; and
- a State-owned company.

Madam Speaker, the amendment will also apply to volunteer first responders.

Under the Act, volunteers engaged in fire-fighting operations or fire prevention operations; volunteers engaged in ambulance services; and volunteers performing police operations are taken to be a worker employed by the Crown.

Additionally, section 56 of the *Emergency Management Act* specifies that, for the purposes of the *Workers Rehabilitation and Compensation Act*, a volunteer emergency management worker who participates in emergency management or a rescue and retrieval operation is taken to be a worker employed by the Crown while engaging in that emergency management or rescue and retrieval operation.

This means that volunteer fire-fighters, volunteer ambulance officers, Police volunteers and volunteer emergency management workers, as described above, will be classed as relevant workers to which PTSD presumption will apply.

Madam Speaker, the changes do not apply retrospectively.

The presumption will however apply to all undecided cases and to new claims if the injury occurred before commencement.

The presumption will not apply if the worker is not eligible for compensation in accordance with section 25(1A) of the Act.

This includes, but is not limited to, situations where mental health injuries arise from reasonable action taken in a reasonable manner by an employer to transfer, demote, discipline or counsel a worker or to bring about cessation of a worker's employment.

The presumption will also not apply if under section 25(2) of the Principal Act, compensation is not payable as a result of an injury which is attributable to the serious and wilful misconduct of the worker (unless the injury results in the death or serious impairment) or an intentional self-inflicted injury.

Madam Speaker, this Government is committed to supporting all Tasmanian workers in relation to PTSD and mental health more broadly, and this amendment is a big step in the right direction.

I have also asked the WorkCover Tasmania Board to explore whether presumption should be applied to broader occupational groups and I look forward to their advice on how we can strive to ensure the benefits of this amendment can be experienced by more Tasmanian workers.

Madam Speaker, today we are delivering on our commitment to introduce presumptive legislation relating to PTSD for public sector workers and first responder volunteers. I am proud the Hodgman Liberal Government has brought this nation-leading reform into Parliament.

By raising awareness and normalising these issues we aim to change the attitudes of all Tasmanians to seek help when they need it, and for all employers to treat psychological injuries with the same significance as physical injuries.

The Government takes the health and safety of its workforce with the utmost seriousness. Ensuring Tasmanians are kept safe, healthy and productive is not only good for workers and their families, it is good for our economy, and most importantly it is the right thing to do.

This is why the Hodgman Liberal Government is committed to seeing that first responders – along with all Tasmanian workers – are provided with a fair and sustainable worker's compensation system.

Madam Speaker, I commend the Bill to the House.