



Policy Amendment Proposal

EN-09 Adjudicating Psychological Injuries

This policy amendment proposal relating to adjudicating psychological injuries will reflect the issues consulted on during the engagement for the *Workers' Safety and Compensation Act* (the 'Act') and will align the amendments made in the new legislation.

The new Act comes into force July 1, 2022. The intended effective date of the proposed policy amendments will be July 1, 2022.

The proposed new Adjudicating Psychological Injuries policy will ensure consistency with the provisions of the Act and will detail when psychological injuries are not work related and what the board considers to be normal pressures and tensions of a workplace.

The purpose of this policy is to outline the criteria used by the board to decide whether a worker's psychological injury is work-related.

Relevant sections of the Act

The following sections of the Act are relevant:

- 77 definitions
- 86 entitlement to compensation
- 95 presumption respecting post-traumatic stress disorder

Proposed changes to this policy

- minor changes to section references, language and definitions
- amendments to reflect the following changes from the Act:
 - new definition of "work-related injury" to reflect that mental stress is excluded but disablements resulting from mental stress are included; and
 - expansion of presumption respecting post-traumatic stress disorder to include all workers.

Board Orders/Regulations

- N/A

Current policy

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The Board of Directors is providing this policy amendment proposal to stakeholders seeking their input, comments, questions and suggestions.

Some questions for consideration:

1. Are there any general comments about this policy proposal?
2. Are there any gaps in this policy proposal?
3. Additional comments?

The views of our stakeholders are important to us. All feedback will be considered prior to the Board of Directors approving any amendments.

Engagement on this policy proposal closes on **February 28, 2022**. Please provide your feedback by:

1. Downloading a [fillable form](#) our website and sending it as an attachment to Policy.Feedback@wcb.yk.ca
2. Emailing comments directly to Policy.Feedback@wcb.yk.ca
3. Receipt in our building by February 28, 2022, by mail or drop off at
*Yukon Workers' Compensation Health and Safety Board
401 Strickland Street
Whitehorse, Yukon Y1A 5N8*

By the end of March a summary of all feedback on this policy amendment proposal will be published on our website at www.wcb.yk.ca



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Preventing work-related injuries is the most important job in any workplace. The *Workers' Safety and Compensation Act* establishes the responsibilities of all workplace parties to work together to ensure the physical and psychological health and safety of workers. When injuries do occur, workers and employers must continue to work together to facilitate an injured worker's early and safe return to health and work.

Purpose

This policy is to outline the criteria used by the board to decide whether a worker's psychological injury is work-related.

Definitions

board means the Workers' Safety and Compensation Board

Diagnostic and Statistical Manual of Mental Disorders (DSM) means the authoritative guide containing symptoms, descriptions and criteria for diagnosis of psychiatric disorders published by the American Psychiatric Association

employer means every association, corporation, individual, partnership, person, society or unincorporated organization or other body having in their service one or more workers in an industry and as further defined in section 77 of the Act

post-traumatic stress disorder means post-traumatic stress disorder as described in the most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders* published by the American Psychiatric Association

psychiatrist means a medical practitioner who holds a specialist's certificate in psychiatry issued by the Royal College of Physicians and Surgeons of Canada

psychologist means an individual who is licensed or registered to practise in Yukon or another province as a psychologist

Traumatic event means exposure to actual or threatened death, serious injury, or violence in one (or more) of the following ways:

- directly experiencing the event(s);
- witnessing, in person, the event(s) as it occurred to others; or
- experiencing repeated or extreme exposure to details of the traumatic event(s).

Examples of traumatic events include, but are not limited to:



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- witnessing a fatality or a horrific injury;
- responding to or investigating a fatal or horrific injury;
- being subjected to violence; and
- being subjected to threats of violence when there is reason to believe the threat is serious and potentially harmful to self or others (for example, bomb threat or confrontation with a weapon).

worker means a person who performs work or services for an employer under a contract of service or apprenticeship, written or oral, express or implied and as further defined in section 77 of the Act

work-related injury means an injury or death arising out of and in the course of a worker's employment, resulting from:

- a. a chance event occasioned by a physical or natural cause;
- b. a wilful and intentional act, not being the act of the worker;
- c. a disablement; or
- d. an occupational disease;

but does not include

- e. mental stress; or
- f. an injury resulting from any decision by the worker's employer relating to the worker's employment, including a change in the work to be performed or working conditions or promotion, transfer, demotion, lay-off, discipline, suspension or termination.

Policy Statement

1. General

As with other types of injuries, in order to be considered work-related, a psychological injury must arise out of and in the course of employment.

Mental stress is not considered to be a work-related injury nor is an injury resulting from any decision by the worker's employer relating to the worker's employment, including a change in the work to be performed or working conditions, or promotion, transfer, demotion, lay-off, discipline, suspension or termination.



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2. Post-traumatic stress disorder

Post-traumatic stress disorder will be considered work-related if it is caused by exposure to a traumatic event or events arising out of and in the course of employment.

Due to the nature of their occupation, some workers, over a period of time, may be exposed to cumulative series of traumatic events arising out of and in the course of employment. The cumulative effect is considered to be a final reaction to a series of traumatic events.

The board recognizes that each traumatic event in a series of events may affect the worker psychologically. This is true even if the worker does not show the effects until the most recent event. As a result, entitlement may be accepted because of the cumulative effect, even if the last event is not the most traumatic.

Post-traumatic stress disorder is considered work-related if the evidence shows that:

- the worker was exposed to a traumatic event or events that arose out of and in the course of the worker's employment; and
- the worker is diagnosed with post-traumatic stress disorder by a psychologist or psychiatrist.

Diagnosis

The worker must be diagnosed with post-traumatic stress disorder made according to the most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders*.

Presumption respecting post-traumatic stress disorder

If the above-criteria are met, it is presumed the post-traumatic stress disorder is a work-related injury, unless the contrary is shown.

The presumption applies to injuries occurring on or after July 1, 2022.

3. Other psychological injuries

The board will consider a claim for other psychological injuries when:

- the evidence shows that the injury arose out of and in the course of the worker's employment;
- the worker's employment was a significant causal factor of the injury; and
- the worker is diagnosed with a disorder as defined in the most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders*.



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4. Normal pressures and tensions of work

A worker is not entitled to compensation for:

- mental stress, or
- an injury resulting from any decision by the worker's employer relating to the worker's employment, including a change in the work to be performed or working conditions, or promotion, transfer, demotion, lay-off, discipline, suspension or termination.

In addition to the duties reasonably expected by the nature of the worker's occupation, reasonable actions taken by an employer relating to management of work and workers are considered a normal part of employment. Normal employment expectations include, but are not limited to the hiring and firing employees, promotions, demotions, lay-offs, termination, transfer, workload fluctuations or assignment changes, timeline pressures, interpersonal conflict, discipline, performance evaluation, burnout, and dissatisfaction with the work environment.

5. Pre-existing conditions

A worker may also have an illness, disease, prior injury or other physical or psychological condition that existed before the work-related injury occurred. The board will apply policy [EN-07 Pre-Existing Conditions](#) to determine whether there is any eligibility for compensation in these cases.

Related Policies

[EN-07 Pre-Existing Conditions](#)
