

## Questions and Answers

### Gradual Onset Psychological Injury

#### EMPLOYERS

#### How will the employer service experience be different?

**1. How will gradual onset compensability affect my WCB premiums?**

Any new benefit creates new costs, and ultimately the system needs to remain sustainable into the future. As always, the WCB Board of Directors will meet to determine rates, guided by our new [Approved Rate Range](#). The Board will take a long-term view when they do that, informed by what is best for the system as a whole.

We are acutely aware of the cost of workers' compensation insurance in our province, and it is our goal to create a system that's sustainable, financially solid, and that provides good value for both employers and workers.

Part of our preparation for this change will include resources and supports to help employers understand their responsibility to provide a workplace that is both physically and psychologically safe, in order to minimize financial impacts.

**2. What should I be talking about with my workers, in preparation for this change?**

For employers, preparing for gradual onset psychological injury compensability includes making sure their workplaces are psychologically safe, and that their return-to-work programs support recovery and stay at work/return to work after psychological injury.

Successful stay at work/return to work after injury depends on collaboration between the employer and the worker. Making psychological injury part of your return-to-work program, and setting those expectations for collaboration now, will help to support your workers and your workplace if an injury occurs.

Here are some facts about gradual onset psychological injury compensability that you can share with your workers:

- Gradual onset psychological injury becomes compensable in Nova Scotia on September 1, 2024.
- A gradual onset psychological injury is a work-related psychological injury that happens over time, and which is wholly or predominantly caused by significant workplace stressors, such as bullying and harassment.
- A diagnosis by a mental health professional is required.

- Under the legislation, injuries resulting from gradual onset or traumatic psychological injury are eligible for compensation when they:
  - arise out of and in the course of employment; and
  - are wholly or predominantly caused by one or more (or a cumulative series) of significant work-related stressors.
  - The event(s) that cause the mental stress must be identifiable.

For more information about the WCB's service delivery model for gradual onset psychological injury, invite your workers to visit [the dedicated section on our website](#).

[Read more about the full legislation](#) making gradual onset psychological injury compensable in Nova Scotia.

### 3. What documentation do employers need to have ready when it comes to psychological injury claims?

In many ways the documentation remains the same as physical injuries – the injury report will be key, and after the claim - though not an employer responsibility - medical information including a diagnosis will be important.

As always, documenting any incident you feel may lead to psychological injury – just as you would for physical injury – is important. The principles of a safety system translate well to psychological safety, too. Our case workers and navigators will help workers and employers through the new process, every step of the way. If possible, discussion and collaboration between the worker and their employer on a return-to-work plan should happen when the injury is first reported. Of course, the best claim is the one that never happens at all. Just as they do for physical health and safety and return to work, employers should have a documented plan to support psychological safety at work, and maintain good records on how the plan has been implemented, at an organizational, team and individual worker level.

We can help. [Learn more about how you can make your workplace psychologically safe](#).

### 4. Why is there no apportionment for these claims?

Section 10(5) of the Act states that when a work-related injury results in loss of earnings or permanent impairment due in part to the work-related injury, and in part to other causes (including the worsening of a pre-existing condition), the WCB will pay compensation for the proportion of the loss of earnings or permanent impairment that may reasonably be attributed to the work-related injury. WCB **Policy 3.9.11R1 Apportionment of Benefits** sets out when and how we do this.

The recent changes to the Act with respect to mental stress, specifically 10J(1)(b), has exempted these types of claims from the apportionment requirement by including the phrase “not withstanding subsection 10(5)”. The entire section reads as follows:

10J(1) Subject to subsection (2), a worker is entitled to compensation under this Part for gradual onset or traumatic mental stress if the stress

- (a) arises out of and in the course of the worker's employment; and

- (b) notwithstanding subsection 10(5)**, is wholly or predominantly caused by one or more significant work-related stressors or a cumulative series of significant work-related stressors.

Instead of being subject to apportionment, compensation will be paid when the gradual onset or traumatic mental stress is work-related and is wholly or predominantly caused by one or more significant work-related stressors or a cumulative series of significant work-related stressors.

**5. What resources does the WCB have available to help employers make their workplaces psychologically safe?**

The WCB already offers some helpful information and resources, and will be adding lots more- - including a self assessment, a claim journey map, and prevention resources based on the Mental Health Commission of Canada's [National Standard for Psychological Health and Safety in the Workplace](#) in the months to come. For now, you can:

- [Visit our corporate website](#) for more information about how gradual onset psychological injury claims will be managed and supported.
- [Visit worksafeforallife.ca for tools and information](#) to help make your workplace psychologically safe.
- [Sign up to WCB's e-news](#) to stay up to date about safety news and get the latest information on gradual onset psychological injury.