

Reasonable Administrative Action Exclusion for Psychological or Psychiatric Disorder

The *Workers Compensation and Injury Management Act 2023 (WCIMA23)* excludes claims for psychological and psychiatric disorders which result from reasonable administrative action taken by a worker's employer, or that are due to the worker's demotion, dismissal or retrenchment or not being promoted, reclassified, transferred or granted leave of absence or any other benefit in relation to the employment.

The exclusion also extends to any psychological or psychiatric disorder arising out of formal appraisal of a worker's performance.

Key Points

Act ref: s. 7

- Any psychological or psychiatric disorder that a worker experiences will not be an injury from employment if it results wholly or predominantly from administrative action (unless the administrative action is unreasonable and harsh on the part of the employer).
- Administrative action includes any of the following actions:
 - appraisal of the worker's performance
 - suspension or disciplinary action
 - anything done in connection with an action described above
 - anything done in connection with the worker's demotion, dismissal or retrenchment, or the worker's failure to obtain a promotion, reclassification, transfer or other benefit, or to retain any benefit, in connection with the worker's employment.
- The exclusion does not apply if the administrative action is unreasonable and harsh on the part of the employer, or the psychological or psychiatric disorder does not result wholly or predominantly from the administrative action.

Questions & Answers

Q. Will the provisions of the WCIMA23 impact an existing psychological injury claim under the 1981 Act?

A. No. The WCIMA23 (s. 552) provides that the reasonable administrative action exclusion under the WCIMA23 does not apply to an existing psychological injury claim when the new Act comes into operation.

Q. Can I make a claim if I suffer a psychological injury and I believe my employer's behaviour or conduct caused the injury?

A. Yes. The exclusion only applies to psychological or psychiatric disorders wholly or predominantly arising out of reasonable administrative action. The exclusion does not extend to psychological claims associated with other conduct of the employer (e.g. bullying) or administrative action that is unreasonable and harsh on the part of the employer.

Q. Does the exclusion apply if an employer provides informal counselling or has informal discussions about performance?

A. No. The exclusion applies to formal reasonable administrative action.