



TOP COMPLIANCE (Pty) Ltd

Your Business' Safety Is Our Concern

QSE B-BBEE - Level Four

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Alcohol and drugs in the workplace

Employers are faced with this problem on a regular basis. Abuse of alcohol or drugs in the workplace while on duty, the consumption of alcohol or drugs before coming on duty, with all sorts of excuses such as “it is from the night before party or braai” or “it is in the prescribed cough syrup”. Employees may have a drink or two when meeting with clients and customers.

In South Africa, workplace health and safety are governed by various legislations to ensure the well-being of employees and prevent accidents or hazards. When it comes to drug and alcohol use in the workplace, the primary legislation that addresses this issue is the [Occupational Health and Safety Act](#) (OHSA) of 1993.

The OHSA is a comprehensive piece of legislation that outlines the [responsibilities of employers](#) to provide a safe working environment for their employees. Section 8 of the OHSA states as follows:

General duties of employers to their employees

1. Every employer shall provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of his employees.
2. Without derogating from the generality of an employer's duties under subsection (1), the matters to which those duties refer include in particular-
 - a. the provision and maintenance of systems of work, plant and machinery that, as far as is reasonably practicable, are safe and without risks to health;
 - b. taking such steps as may be ***reasonably practicable to eliminate or mitigate any hazard or potential hazard*** to the safety or health of employees, before resorting to personal protective equipment;
 - c. making arrangements for ensuring, as far as is reasonably practicable, the safety and absence of risks to health in connection with the production, processing, use, handling, storage or transport of articles or substances;

- d. ***establishing, as far as is reasonably practicable, what hazards to the health or safety of persons are attached to any work which is performed***, any article or substance which is produced, processed, used, handled, stored or transported and any plant or machinery which is used in his business, and he shall, as far as is reasonably practicable, further establish what precautionary measures should be taken with respect to such work, article, substance, ***plant or machinery in order to protect the health and safety of persons, and he shall provide the necessary means to apply such precautionary measures***;
- e. ***providing such information, instructions, training, and supervision*** as may be necessary to ensure, as far as is reasonably practicable, the health and safety at work of his employees;
- f. as far as is reasonably practicable, ***not permitting any employee to do any work or to produce, process, use, handle, store or transport any article or substance or to operate any plant or machinery, unless the precautionary measures contemplated in paragraphs (b) and (d), or any other precautionary measures which may be prescribed, have been taken***;
- g. ***taking all necessary measures to ensure that the requirements of this Act are complied with*** by every person in his employment or on premises under his control where plant or machinery is used;
- h. ***enforcing such measures*** as may be necessary in the interest of health and safety;
- i. ensuring that work is performed, and that plant or machinery is used under the ***general supervision of a person trained to understand the hazards*** associated with it and who have the authority to ensure that precautionary measures taken by the employer are implemented; and
- j. ***causing all employees to be informed regarding the scope of their authority*** as contemplated in section 37 (1) (b).

OHSA requires employers to do a [risk assessment](#) of their workplace and tasks that may pose a risk and then develop and implement a written [health and safety policy and procedures](#), that includes provisions for managing substance use and abuse in the workplace. This policy should outline the employer's stance on drug and alcohol use, as well as the procedures for testing employees for substance use and abuse and helping those who may have a substance abuse problem.

The important thing that comes out of the case law is the Employer's policy on alcohol and drug consumption on or off the workplace. The policy should be clear, *zero tolerance*. Do not allow for limits in your policy. The policy must clearly stipulate your test procedure. A breathalyser test for alcohol (ensure that it has a certificate of calibration as specified by the manufacturer data sheet) will be required, or a urine screen test for drugs. The policy must state that note will be taken of circumstantial evidence, such as bloodshot eyes, slurred speech, the smell of alcohol on the breath (this may also be a sign of Diabetes and certain metabolic illnesses), unsteadiness on his feet, dishevelled appearance, aggressive or abusive or

arrogant or out of character behaviour, and the inability to walk a 10m straight line with the arms held out horizontally.

There should be a specific formal document on which the above items are listed, together with space for the comments of the person conducting the test. There should be a witness present for the employer and a witness present for the employee to ensure fairness of the procedure. The employer's rules regarding alcohol or drug consumption whilst on duty, or off duty before coming to work, must be very specific and must warn employees that should the rule be contravened, disciplinary action will follow which may result in dismissal. The policy must also make mention of the regulations in the Occupational Health and Safety Act regarding this issue.

Consider these warning signs, which may indicate drug or alcohol misuse, understanding that it may also be signs of other problems such as stress or illness:

- unexplained or frequent absences
- a change in behaviour
- unexplained dips in productivity
- more accidents or near-misses
- performance or conduct issues

You must consult employees or their [safety representatives](#) on health and safety matters. Consultation involves you not only giving information to employees but also listening to them and taking account of what they say.

You could ask your employees what they know about the effects of drugs and alcohol on health and safety and the restrictions or rules on drug and alcohol use in your business. Think about the kind of work you do and any safety-critical elements where drug or alcohol use or misuse could have a serious outcome, for example:

- Using machinery
- Using electrical equipment
- Working on ladders and at height
- Driving and transporting people
- Operating lifting equipment
- Staff working with the public that may harm your company reputation
- Teachers, child minders and care assistants responsible for the safety of children

This information will help you when drafting your [risk assessment](#). Where employees in safety-critical jobs seek help for alcohol or drug misuse, it may be necessary to transfer them to other work, at least temporarily.

If an employee tells you they have a drug or alcohol problem, an effective policy should aim to help and support them rather than lead to dismissal. It should also highlight when you will take disciplinary or other action, for example that you will report drug possession or dealing at work to the police straight away.

There may be a case for screening, particularly in certain jobs (for example employees who make safety-critical decisions like drivers, pilots and some machinery operators, people working with the public and

clients and teachers working with children). In jobs like these the misuse of drugs or alcohol could have disastrous effects for the employee, colleagues, company reputation, members of the public and the environment.

It is important to remember that:

- Employees must consent to screening for practical and legal reasons. This can be drafted into their employment contract with the relevant policy as well as the company's disciplinary code of conduct.
- Screening by itself will not solve problems caused by drug and alcohol misuse and, where introduced, should be part of a company's overall health and safety management system.
- Screening must be carried out properly to ensure samples cannot be contaminated or tampered with, and that testing procedures and analysis are accurate.
- Employees can't be made to take a test but, if they refuse when an employer has good grounds for testing, they may face disciplinary action.
- Should an employee dispute a urine test done with a screening kit, the sample must be sent to a laboratory that can do gas chromatography coupled with mass spectrometry (GC/MS) on the donor urine samples A and B if needed. There are various causes for a false positive result in a screen drug test. A screen drug test may not stand the scrutiny in court. A strict chain of custody must be kept and evidence maintained from the collection officer through to the forensic laboratory.
- Certain medication may cross react with the screen test resulting in a false positive result. For example: Nonsteroidal Anti-Inflammatory Drugs such as ibuprofen and naproxen, may cause false positives for cannabinoids (THC) on certain drug tests. Certain antidepressant medications, such as trazodone and bupropion, have been associated with false positive results for amphetamines or MDMA (ecstasy) on drug tests. Some over-the-counter antihistamines, such as diphenhydramine (Benadryl), may lead to false positives for opioids or benzodiazepines on urine drug screens. Quinolone antibiotics, like levofloxacin and ciprofloxacin, have been reported to cause false positives for opioids on some drug tests. Efavirenz, a commonly used ARV for the treatment of HIV, has been reported in some cases to cause false positive results for cannabinoids (THC) on urine drug screens.

It is therefore vital to confirm a false positive result that occurs on a drug screen test, confirmatory testing using more specific and accurate methods, such as gas chromatography-mass spectrometry (GC-MS) or liquid chromatography-tandem mass spectrometry (LC-MS/MS), can help differentiate between false positives and true positive results. Employees may be reluctant to divulge medication they are on in fear of victimisation and stigmatisation.

When you have assessed the risk and have a policy on drug or alcohol use, misuse or abuse in your workplace, make sure your employees know about the policy and the support you offer.

You could increase awareness by including an explanation of the drug and alcohol misuse policy in your annual induction process and for the induction of new employees.

Employees with a drug or alcohol problem may ask for help at work if they are sure their problems will be dealt with discreetly and confidentially. But also consider your own legal position if you are given evidence or information that suggests an employee's drug use or misuse has involved breaking the law at work.

Drug and alcohol dependence are recognised medical problems. Someone who is misusing drugs or alcohol has the same rights to confidentiality and support as they would if they had any other medical or psychological condition.

Encourage them to get help from their GP or a specialist drug or alcohol agency or refer them to your organisation's occupational health service if you have one. Consider allowing someone time off to get expert help. Often the cost of recruiting and training a new employee may be more than the cost of time off.

Think about whether drug and alcohol use or misuse in your workplace is treated as a disciplinary matter or a health concern. If you dismiss someone because of drug or alcohol misuse without trying to help them, an employment tribunal may find that you have dismissed them unfairly.

But if their normal work is safety-critical you may need to temporarily move them to another job.

If you don't have access to occupational health services, you can still support employees' health and wellbeing. You can make sure there is information at work about where they can go for advice and help if they're concerned about drug or alcohol misuse.

Employers in South Africa have a legal and moral obligation to ensure a safe and healthy work environment for their employees, which includes managing the risks associated with drug and alcohol use and abuse. By complying with relevant legislation and implementing appropriate policies and procedures, employers can help prevent accidents, protect their employees' health, and promote productivity in the workplace.

Some helplines that one can post in the workplace to anonymously assist employees.

- South African Depression and Anxiety Group (SADAG) Substance Abuse Helpline - 0800 12 13 14
- South African National Council on Alcoholism and Drug Dependence (SANCA) - 011 892 3829
- WhatsApp message to 076 535 1701
- AL-ANON - 0861 252 666
- Alcoholics Anonymous South Africa - 0861 435 722
- South African Depression and Anxiety Group (SADAG) - 0800 567 567
- Lifeline South Africa – 0861 322 322
- South African Federation for Mental Health – 011 781 1852

Creating a safe workplace means zero tolerance for drugs and alcohol. A commitment to sobriety ensures everyone's well-being and fosters an environment of safety, health, trust and productivity.

For more information regarding the policy, procedures and chain of custody email info@topcompliance.co.za for further Occupational health and safety assistance.

Occupational health and safety auditing and consulting			Online safety shop
			
First aid equipment	Signage	Legal posters	Safety Equipment

Courses offered by Top Compliance (Pty) Ltd

ONLINE ACADEMY - https://academy.topcompliance.co.za/	
Occupational Health and Safety Courses	
Safety representative – Legal Liability	
The Occupational Health and Safety Act & responsibilities of management – Legal Liability	
Hazard Identification and Risk Assessment	
Food facility health & safety course in terms of R638	
Basic Ladder Safety Course	
Fire Fighting and Prevention Courses	
Fire Marshal - Basic firefighting	
Fire & Evacuation marshal - Basic firefighting with emergency action planning	

ONSITE TRAINING	
First Aid Courses:	
Level 1 - US 119567 - Perform basic life support and first aid procedures	2 days
Level 2 - US 120496 - Provide risk-based primary emergency care/first aid in the workplace	3 days
Level 3 - US 376480 - Provide first aid as an advanced first responder	3 days
Level 1 & 2 - US 119567 & 120496	3 days
Level 1, 2 & 3 - US 119567, 120496 & 376480	5 days
Level 2 & 3 - US 120496 & 376480	3 days
Child and infant CPR & choking	6 hours
Adult CPR & choking	6 hours
Adult CPR & choking and AED	1 day

Occupational Health and Safety Courses	
Safety representative – Legal Liability	1 day
The Occupational Health and Safety Act & responsibilities of management – Legal Liability	1 day
Hazard Identification and Risk Assessment	1 day
Food facility health & safety course in terms of R638	6 hours
Basic Ladder Safety	6 hours
Fire Fighting and Prevention Courses	
Fire Marshal - Basic firefighting	6 hours
Fire & Evacuation marshal - Basic firefighting with emergency action planning	1 day