



Department of Local Government,
Industry Regulation and Safety



Drugs & Alcohol In the Workplace

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Department of Local Government,
Industry Regulation and Safety



Restructure from 1 July 2025:

~~Department of Energy Mines, Industry Regulation and Safety. (“DEMIRS”)~~

- Department of Local Government, Industry Regulation and Safety (“LGIRS”)
- Department of Mines, Petroleum and Exploration (DMPE)



Department of Local Government,
Industry Regulation and Safety



- WorkSafe is part of Safety Regulation Group

Director General: Lannie CHOPPING

Minister: Hon. Simone McGurk

Minister for Creative Industries; Heritage; Industrial Relations; Aged Care and Seniors; Women

Agenda

- WHS Legislation
- Guidance Note – Alcohol & Other Drugs at Workplace
- Fitness for Work Policy
- Drug Testing Issues
- Current Issues – Medicinal Cannabis



CURRENT WA-BASED WHS LEGISLATION

ONE ACT:

- Work Health and Safety Act 2020

Three sets of Regulations:

- Work Health and Safety (General) Regulations 2022
- Work Health and Safety (Mines) Regulations 2022
- Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022

Does the WHS legislation address D&A ?

- WHS Act and WHS Regulations do not address Drugs & Alcohol at workplaces
- Refer to General Duty of Care provisions
 - Section 19 – Primary Duty of Care (Employers – “PCBUs”)
 - Section 27 – Duties of (Company) Officers
 - Section 28 – Duties of Workers
- Guidance Note:
 - Alcohol and Other Drugs at the workplace 2008

Work Health & Safety Act 2020

Duty Holders:

- PCBU – Person Conducting a Business or Undertaking
- Officers (Company Directors)
- Worker –includes traditional employees and many other arrangements
- Suppliers – equipment, chemicals etc.

Work Health & Safety Act 2020

PCBU - Person Conducting a Business or Undertaking

- A person conducting a business or undertaking alone or with others, whether or not for profit or gain.
 - a sole trader (for example, a self-employed person)
 - each partner within a partnership
 - a company
 - an unincorporated association
 - government departments & local governments

Work Health & Safety Act 2020

Section 19 – PCBUs Primary Duty of Care

- So Far As Practicable – Ensure the Health and Safety of:
 - workers engaged, or caused to be engaged, by the PCBU
 - workers whose activities in carrying out work are influenced or directed by the PCBU
- while the workers are at work

Work Health & Safety Act 2020

Section 19 – examples of PCBU duties

- the provision and maintenance of a working environment that is safe and without risks to health, including safe access to and exit from the workplace
- the provision and maintenance of plant, structure and systems of work that are safe and do not pose health risks (for example, providing effective guards on machines and regulating the pace and frequency of work)
- the safe use, handling, storage and transport of plant, structure and substances (for example, toxic chemicals, dusts and fibres)
- the provision of adequate facilities for the welfare of workers at work (for example, access to washrooms, lockers and dining areas)
- the provision of information, instruction, training or supervision to workers needed for them to work without risks to their health and safety and that of others around them
- that the health of workers and the conditions of the workplace are monitored to prevent injury or illness arising out of the conduct of the business or undertaking
- the maintenance of any accommodation owned or under their management and control to ensure the health and safety of workers occupying the premises.

Work Health & Safety Act 2020

Section 28 – Duties of Workers: Whilst at work, workers must:

- take reasonable care for their own health and safety;
- take reasonable care that the worker's acts or omissions do not adversely affect the health and safety of other persons;
- **comply, with any reasonable instruction** that is given by the PCBU to allow the PCBU to comply; (as much as possible)
- **cooperate with any reasonable policy or procedure** of the PCBU relating to health or safety at the workplace

Work Health & Safety Act 2020

Section 28 – Duties of Workers:

In Practice:

- Be fit and well enough to do their job
- Not be under the influence of alcohol or drugs
- Not use alcohol or illegal drugs while at work.

GUIDANCE NOTE

ALCOHOL AND OTHER DRUGS

AT THE WORKPLACE

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Duties relating to drugs and alcohol

Last updated: 28 November 2024

www.worksafe.wa.gov.au/duties-relating-drugs-and-alcohol

Fitness for Work

Many factors can affect a person's ability to work safely:

- Lack of sleep - social media, tv etc.
- Illness
- Life events – eg: relationships, young children
- Neighbours
- Prescription medication
- Alcohol & Illicit Drugs

Address D&A issues as “Fitness for Work”

Fitness for Work Policy

- Demonstrates PCBU WHS commitment
- Helps PCBU manage drug and alcohol related issues in the workplace.
- Clearly outlines workplace expectations
- Details what action will be taken when worker is found to be unfit for work

What do I do with a worker affected by drugs or alcohol

- PCBU has an obligation to ensure affected worker & other workers are NOT PUT AT RISK.
- Follow steps in D&A policy
- If no policy exists
 - Do not allow worker to work or enter workplace
 - Provide safe means for worker to go home
- Note: Impairment may be caused by factors other than drugs & alcohol

What do I do with a worker affected by drugs or alcohol

If worker appears to be Unfit for Work & unable to work safely:

- Ensure worker cannot harm themselves or others
- Be brief, firm and calm
- Use the affected person's name; repeat your message – eg:
(‘John - I am instructing you to stop work for the day.
We will make arrangements for you to get home safely’).
- Do not argue or debate; simply repeat your message.
- Avoid using terms such as 'You're drunk'.

Serving Alcohol at Work Functions

- Set rules of behaviour before event
- Ensure venue is as safe as possible
- Consider serving lower alcohol (mid-strength) drinks
- Ensure food, water & non-alcoholic drinks available
- Monitor consumption
- Provide safe means of workers getting home

Drug Testing

- Can I test my workers ? **YES**

IF you have a clear & detailed policy in place beforehand
AND

Prior to testing you have consulted with the workers

- Do I have to test my workers? **NO**
- Testing cannot determine:
 - Amount / dose
 - When consumed
 - Actual impairment

Drug Testing ...Factors to Consider

- Which Workers – All or only Safety Critical Roles?
- When will testing be conducted?
- Testing to AS/NZS 4308:2008 and AS 4760:2019.
- Substances tested for Quality of Equipment / Test kit
- Type of test (oral fluids vs urine vs blood)
- Detection Limits
- Procedure if worker tests positive
- Sample handling
- Training of testers

When worker tests positive

- Stop worker performing higher risk activities
 - Can worker be assigned lower risk duties ?
- Follow up testing
- Return to work pathway – additional supervision ?
- Rehabilitation / Counselling Services – EAP
- Consider responses other than termination

A Current Issue

INFORMATION SHEET

Medicinal cannabis in the workplace

Cannabis

Cannabis is considered a drug with high potential for abuse in most countries. The drug is produced from the cannabis plant and contains over 100 active chemicals (cannabinoids). Many cannabinoids are psychoactive (mind altering) or become psychoactive after they are metabolised in the body. The main psychoactive ingredient in cannabis is delta-9-tetrahydrocannabinol (THC). Cannabis affects a person's judgement, motor coordination, reaction times and driving ability.

Medicinal Cannabis

- Legalised 2016 – Regulated by Therapeutic Goods Administration (TGA)
- > 100 products available – pills, oils, herbal material
- Most medicinal cannabis products NOT APPROVED OR REGISTERED BY TGA
 - Only 2 products TGA approved & registered
 - Spasticity in Multiple Sclerosis
 - Seizures - Lennox-Gastaut syndrome or Dravet syndrome
- NOT first-line therapy for any medical condition
- Intensive marketing – esp Social Media - > 1,000,000 consumers

Medicinal Cannabis

- Delta-9-Tetra hydro cannabinol (THC) (Psychoactive) vs Cannabidiol (CBD)
 - CBD: Doesn't produce a 'high' but causes fatigue and drowsiness.
 - THC: Psychoactive & intoxicating - produces a 'high' (euphoria).
 - Also causes psychomotor impairment - affects cognition, short term memory, decision-making and motor skills, tiredness, confusion, nausea, vomiting etc.
 - Products high in THC can cause anxiety, paranoia, hallucinations
- Quality control - CBD Products found to contain THC
- **Medicinal cannabis has triggered acute psychosis in many patients**

Medicinal Cannabis

- Offence to drive with THC in most jurisdictions
- **Worker responsibilities:**
 - Notify employer you are taking medicinal cannabis
- **PCBU responsibilities:**
 - Include medicinal cannabis in D & A policy (consult with workers)
 - Identify which roles & tasks create risks – esp safety critical roles
 - Risk assess & modify work tasks where possible
 - Provide process workers can use to confidentially notify PCBU
 - **Seek medical advice – worker's fitness for work & tasks**

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