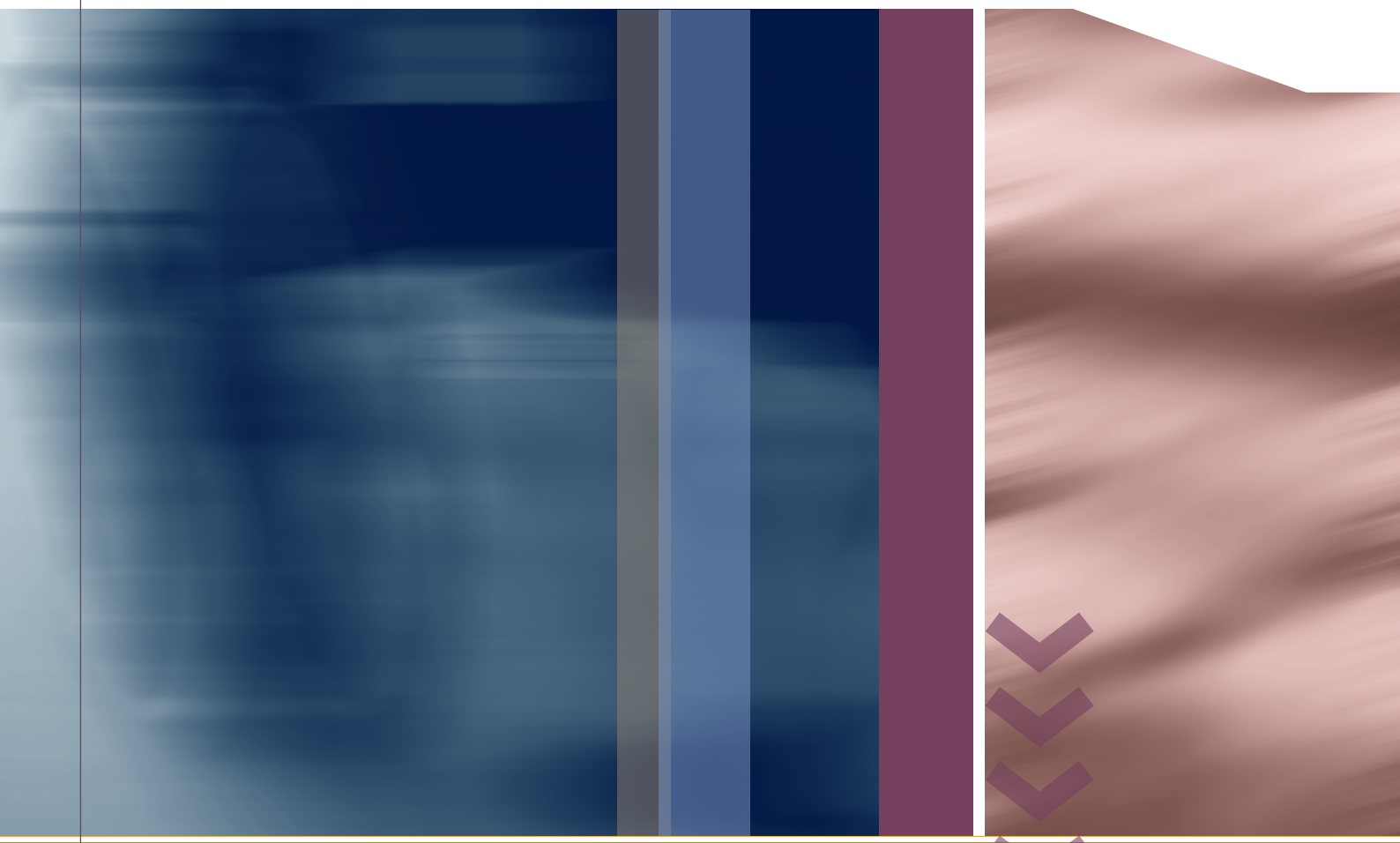
WORK-RELATED ALCOHOL AND DRUG USE

A FIT FOR WORK ISSUE



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Australian Government
Australian Safety and Compensation Council

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Executive Summary

1. In Australia, alcohol use is a daily part of many people's lives. Although the use of illicit drugs is not as common, with only a small proportion of people regularly using these products, the number of people that have used these drugs at least once is reported to be increasing. The effects of both alcohol and illicit drug use during and outside of work hours can have a significant negative impact on workplace health, safety and productivity.

2. Workplace policies may help change the norms and culture around illicit drug and alcohol use, and may also assist is changing family and community attitudes. Workplace prevention programs may complement existing public health programs to help address substance use before people become dependent and need more specialised intensive interventions.

3. The empirical evidence on the public health consequences of alcohol and drug abuse is relatively well established. However, despite the wealth of opinion and advice on this subject, the evidence for workplace consequences is sparse. For example, despite the intuitive link, there is little clear evidence on the links between drug use and absenteeism, low productivity, poor performance and accidents at work. Although there is very good evidence to support the efficacy of road side random breath testing, there is little robust evidence on the deterrent effects of drug testing for either illicit drugs or alcohol in the workplace

4. This relative lack of clear evidence on the effectiveness of these programs makes developing sound policy more difficult. However, there is evidence that suggests that good general management practices are the most effective method for achieving enhanced safety and productivity, and lower absenteeism and turnover rates. As such, a comprehensive workplace policy on illicit drug and alcohol use as part of general management policies could help in addressing problems that arise because of alcohol and illicit drug use in the workplace.

5. The implementation of workplace drug testing is a sensitive and complex issue. While there is good evidence of the reliability of alcohol breath testing and the association between blood-alcohol levels and subsequent performance impairment, this is not as well established for many illicit drugs. For these substances the main concern is that these tests only provide an indication of recent use. Further, the evidence of the association between the drug levels derived from the samples (blood, urine etc) and subsequent performance impairment is relatively sparse.

6. The implications of consumption patterns, the timing of the consumption and the effects of withdrawal also need to be considered in any decision to implement an alcohol and illicit drug testing regime. The advantages of implementing testing regimes for the general working population could be quite minimal. To be effective, a clearly defined and agreed rationale for

testing is required, accompanied by a comprehensive policy, preferably developed in consultation with workplace representatives.

Key Messages

- People in the workforce are more likely to have consumed alcohol or illicit drugs in the past 12 months than people who are not in the workforce.
- Contrary to popular opinion, the greater costs to employers do not arise through the behaviour and habits of alcohol and drug dependent workers, but through the greater number of moderate drinkers when they occasionally or infrequently drink to excess or infrequently use illicit drugs.
- The impairment that comes from both acute and chronic symptoms of alcohol and illicit drug use could lead to occupational health and safety issues for both the workers who consumed these products and other people they work with.
- Considering the length of time that people spend at work, the workplace is ideally situated to change attitudes and behaviour in regards to alcohol and other drug use.
- A workplace policy on alcohol and drug use should be developed in consultation with all members of the workplace, apply equally to all levels, clearly state what is acceptable behaviour and the consequences of any unacceptable behaviour and be clearly communicated to all members of the workforce.

Introduction

7. Substance intoxication and conversely withdrawal can negatively affect performance in a number of ways. Impaired or altered memory, concentration, reaction times, dexterity and mood could all contribute to the risk of accidents. Although alcohol and illicit drug use that impacts on workplaces is not a new issue, until recently the extent of alcohol and illicit drug usage in this environment was not known. Recent research (Pidd, Berry, Harrison, Roche, Driscoll and Newson 2006 (henceforth Pidd et al 2006(a)), Bywood, Pidd and Roche 2006) has supplied this information.

8. While drug testing regimes have been relative common in some industry sectors such as mining, it has become more topical with the Australian Government's recent announcement of the development of a drug testing regime for Australian pilots and other air safety critical personnel. The Australian Safety and Compensation Council has had a long standing interest in work-related alcohol and drug use, and requested a briefing paper be developed for their consideration.

Methodology

9. This paper provides a summary of key activities and developments in Australia and overseas on drug and alcohol use in the workplace from 1992 to 2006. This paper does not contain information on the use of tobacco or exposure to environmental tobacco smoke (ETS) as this has been covered in the ETS Watching Brief produced by the National Occupational Health and Safety Commission in 2001.

Definitions

10. 'Illicit drugs' in this paper refers to:
- illegal drugs including heroin, cocaine, barbiturates, cannabis[1] and MDMA (3,4-methylenedioxymethamphetamine)[2];
- non-medical use of pharmaceutical drugs including painkillers, amphetamines, methadone, other opiates and steroids, and;
- the inappropriate use of volatile substances and other substances like ketamine or inhalants.

11. 'Short term risk drinking' is categorised into three groups. Drinking at risky or high risk levels at least once:
- during the last 12 months is defined as occasional;
- in the last month is defined as infrequent, and;
- in the last week is defined as frequent.

12. 'Workplace alcohol and illicit drug use' refers to a wider definition that includes alcohol and/or drugs consumed during work hours or immediately before commencing work. It also includes consumption that occurs outside of normal working hours that may be influenced by workplace culture, norms or expectations or that could have an effect on the person's capacity to perform their work.

Research Base

13. Searches for academic papers were conducted on a number of databases and search engines using various search terms including "workplace alcohol and drug use", "drug and alcohol workplace policies" and "drug and alcohol testing". Search engines used included OSHROM, EBSCO, Proquest, PubMed, Google Scholar and Google.

14. There has been comparatively little research performed in Australia on identifying alcohol and/or drug consumption patterns of the workforce. Allsop et al. (cited in Phillips 2001) found only forty one studies that had examined at least one aspect of workforce drug use between 1980 and 1996. Phillips (2001) concluded that, in relation to workplace alcohol and other

[1] Products from the plant *Cannabis sativa* can also be known as marijuana or hash(ish).
[2] Generally known as ecstasy, however can also be known as 'E', 'Eccy', 'Adam' or 'XTC'.

drug use, there was little research that could provide a comprehensive picture of drug use in the workplace.

15. The empirical evidence around the risks and prevention of alcohol and illicit drug use in Australian workplaces is sparse. Pidd et al 2006(a) maintain that studies on alcohol consumption are "methodologically weak and conceptually muddy" (Pidd et al. 2006(a) p 44). One of the major deficiencies in the research is that the measurement and definitions of alcohol use are inconsistent.

16. Breugem, Barnett, Cormack, O'Keeffe & Bowshall (2006) concluded that there existed major gaps in the workplace alcohol and illicit drugs evidence base in Australia. These gaps are within all aspects of the knowledge base, including the literature, data collections and evaluations of workplace alcohol and illicit drugs programmes.

17. Phillips (2001) maintained that although there seemed to be more research in other countries on workplace alcohol and illicit drug use, this area is still a neglected area of research. It was also noted that the research done in other countries and cultures would need to be examined for its applicability to Australian workplaces. He maintained that even in the "methodologically robust studies, the link between drug use and employment and work behaviour or outcomes has not been well explored – a critical flaw if we are to understand drug use and the workplace, provide a rationale for responding, and implement effective responses" (Phillips 2001 p 40).

18. The Independent Inquiry into Drug Testing at Work (IIDTW) in the United Kingdom arose out of concerns about the lack of any independent assessment of the arguments for and against drug testing at work. They found a lack of evidence on the links between drug use and absenteeism, low productivity, poor performance and accidents at work. The IIDTW also mentioned that the evidence for a strong link between drug use and accidents in safety critical occupations was also limited. Although clearly, intoxication would be a source of risk in these occupations, there are a number of other factors that could also affect performance such as fatigue, stress, working conditions and workloads (IIDTW 2004).

19. This paper reviews the Australian data on workplace alcohol and drug use and health and safety consequences. It outlines the legislative requirements and case law decisions which inform how companies implement policies followed by a review of the literature and examination of the evidence around the interventions that could be implemented in a workforce alcohol and drug policy. The paper concludes with a review of Australian jurisdictional activities and information on international legislation and guidance material.

Background

20. Historically, alcohol use in the workplace was often tolerated. While attitudes have slowly changed it was not until 1962 that the International Labour Organisation (ILO) declared a convention on social policy which forbids the use of alcohol as payment for labour.

21. In the 19th century the use of now prohibited or restricted drugs was often widespread. In June 1998, the United Nations (UN) General Assembly held a Special Session devoted to countering the world drug problem. A declaration was adopted at the meeting that suggested prevention activities should cover all areas of demand reduction, including discouraging initial use and reducing the social and health effects of drug abuse. It was suggested that the best way to accomplish this is to forge partnerships and invite community participation. Among the groups called on to help were unions and employer groups (UN 1998). The inclusion of these groups acknowledges the role that work plays in most people's lives.

22. In Australia, it is acknowledged that consumption of alcohol at risky levels can place consumers at risk of either short term or long term harm. The Australian Alcohol Guidelines (NHMRC 2001) describe the health risks and the benefits of drinking alcohol. In this publication, the National Health and Medical Research Council outlines the concept of a standard drink and the number of drinks which would place people at risk of short term or long term harm. Table 1 sets out consumption levels of each risk level, in numbers of standard drinks.

Table 1: Number of standard drinks of alcohol for risk of short and long term harms

For risk of harm in the short term			
	Low risk	**Risky**	**High risk**
	On any one day		
Males	Up to 6 No more than 3 days per week	7 to 10	11 or more
Females	Up to 4 No more than 3 days per week	5 to 6	7 or more
For risk of harm in the long term			
	Low risk	**Risky**	**High risk**
	On an average day		
Males	Up to 4	5 to 6	7 or more
Females	Up to 2	3 to 4	5 or more
Overall weekly level			
Males	up to 28	29 to 42	43 or more
Females	Up to 14	15 to 28	29 or more

Source: NHMRC (2001) Australian alcohol guidelines: Health risks and benefits.

23. Alcohol is a depressant drug, slowing down activity in the central nervous system, including the brain. It affects concentration and coordination, and slows the response time to unexpected situations, which could lead to risk taking behaviour, accidents, falls, injury and death, as consequences of the brain's reduced control over reaction time. After just one or two drinks, a person will feel more relaxed but will also have slower reflexes and reduced coordination and concentration. As the person drinks more, they would continue to experience the acute health effect of alcohol use which includes confusion, drowsiness, blurred vision, poor muscle control, gut irritation, diarrhoea, nausea and disturbed sleep patterns (Australian Drug Foundation (1)).

24. Alcohol is absorbed through the stomach and small intestines and is processed by the liver at a fixed rate, and so cold showers, exercise, black coffee, fresh air or vomiting do not speed up the "sobering up" process. Common after effects of an episode of heavy drinking are headaches, nausea, tiredness, shakiness and vomiting. These can last well into the following day (Australian Drug Foundation (1)).

25. Although there is evidence that light alcohol consumption can protect against cognitive impairment in later life, heavy consumption of alcohol over a long period will cause brain cell damage and cell death, which leads to cognitive impairment including loss of memory and reasoning skills. Heavy consumption can cause hepatitis, cirrhosis and severe swelling of the liver. It has also been associated with increased risk of:

- cancer of the mouth, throat, oesophagus, lips, liver;
- high blood pressure, irregular pulse, enlarged heart and changes in red blood cells;
- inflamed stomach lining, bleeding and stomach ulcers, and;
- increased risk of lung infections (Australian Drug Foundation (1)).

26. Howland, Almeida, Rohsenow, Minsky and Greece (2006), in their research on safety critical occupations, found evidence that low levels of blood alcohol can affect reaction time, immediate and delayed recall, hand steadiness, information processing and visual perception. They also found that there was limited evidence that showed that heavy drinking could affect next day neurological performance.

27. The physical and psychological effects of illicit drugs depend on the type of drug use. The most common illicit drugs consumed are cannabis, ecstasy, amphetamines and cocaine. Impaired coordination, affected thinking and memory, increased heart rate and low blood pressure are some of the effects of consuming even small doses of cannabis. Larger quantities can lead to distorted perception, confusion, restlessness, anxiety and panic, decreased reaction time and paranoia (Australian Drug Foundation (2)).

28. Some people who consume ecstasy will initially have an increase in confidence and well-being, but people can also be anxious, have increased heart rate, blood pressure and temperature. Higher doses could produce convulsions, vomiting, irrational or bizarre behaviour and hallucinations. Consumption of amphetamines will produce increased heart rate, breathing and blood pressure, restlessness, anxiety, irritability, hostility and aggression. Higher doses can cause headaches, dizziness, blurred vision, tremors and loss of coordination. Cocaine can produce symptoms of exhilaration, anxiety, poor concentration and judgement and intolerance to pain and fatigue. These symptoms will peak after about 15 –20 minutes and then diminish. Larger doses that are repeated over several hours will lead to extreme agitation, paranoia, hallucinations, tremors and loss of concentration and coordination (Australian Drug Foundation (2)).

29. Generally, the assumption is that the most harm to themselves and others are caused by a small proportion of people who are habitual heavy alcohol drinkers or habitual users of illicit drugs. However, it is the much larger group of more moderate drinkers or occasional users when they use drugs or drink alcohol hazardously that are associated with the most harms (Kreitman, 1986).

30. The relationships between consumption and impairment levels are not always straightforward. Just because consumption of alcohol and illicit drugs is detected, it would be incorrect to assume that impairment follows. Conversely, just because no alcohol and illicit drugs are detected, does not mean that there won't be impairment. There is a range of factors that needs to be considered before it is appropriate to conclude that someone is impaired. The effects of any drug (including alcohol) vary from person to person. This will be influenced for example by how much and how quickly the substance(s) are consumed, and in combination with what others. The effects also depend on the person's tolerance, mood, age, weight, sex, fatigue and general health status.

31. Substance intoxication and conversely withdrawal can negatively affect performance in a number of ways. Impaired or altered memory, concentration, reaction times, dexterity and mood could all contribute to the risks of accidents. These impairments can also be caused by a number of other factors. As mentioned previously, IIDTW pointed out that there are a number of other factors that could also affect performance, such as fatigue, stress, working conditions and workloads (IIDTW 2004). As such, workplaces should also take into account these factors when assessing a person's fitness for work and the risk of accidents.

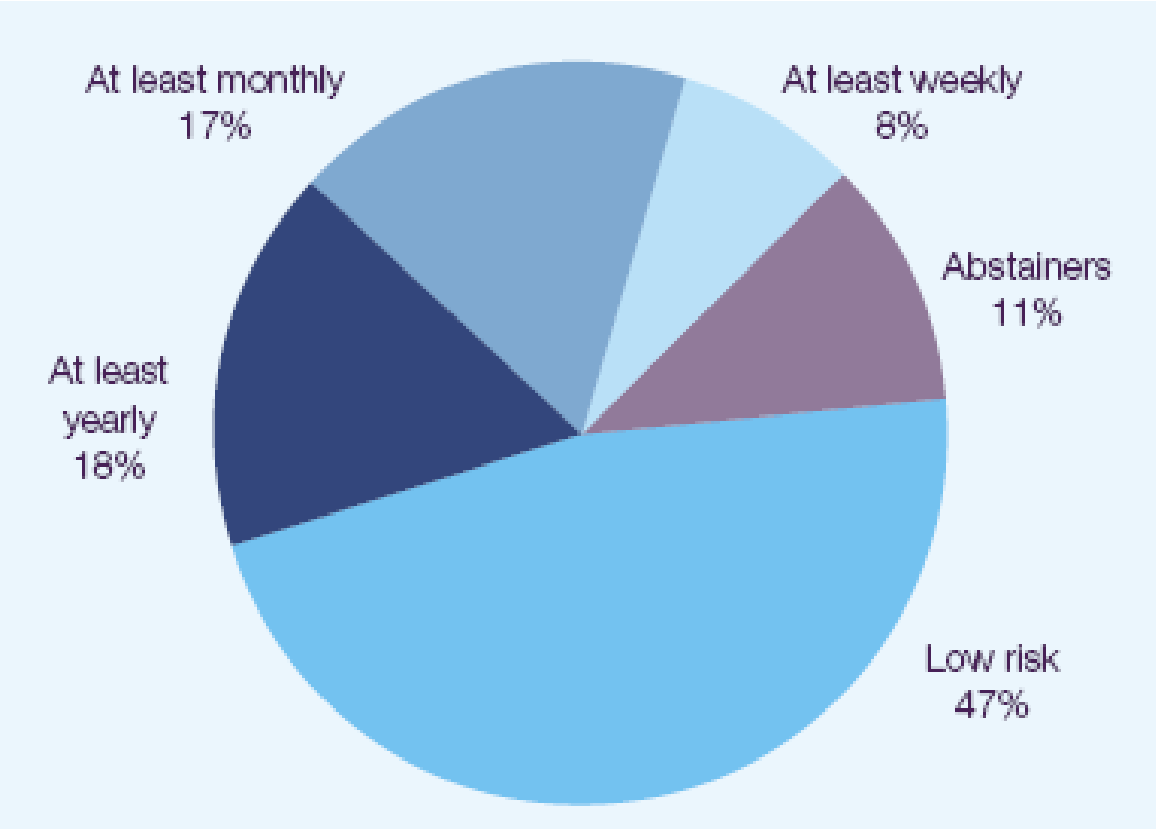
Australian Data

Workplace Alcohol Use

32. One of the best sources of data on alcohol and drug use in Australia is the National Drug Strategy Household Survey (NDSHS). Eight surveys have been conducted over the period 1985-2004. Although the earlier surveys were not conducted regularly, the last four surveys were conducted in three year intervals. The surveys examined current use, awareness, attitudes and behaviours to drugs and drug problems. The sample used for these surveys has increased over the series from 3,500 in 1985 to nearly 30,000 people in 2004.

33. Although the NDSHS has collected data for nearly twenty years, until recently this data had not been analysed to gain information on workplace alcohol use. Pidd et al's 2006(a) report on "*Alcohol and work: patterns of use, workplace culture and safety*" was derived from data from the 2001 survey, in conjunction with information from hospital emergency departments, hospital separations data and the National Coroners Information System. Four Workplace Drug and Alcohol Use information and data sheets were also produced from the analysis of the 2001 survey. Around half of the 26,744 people aged 14 years and over surveyed in 2001 were in the paid workforce.

34. Roche and Pidd (2006a) found that Australians aged 15 years and older in the paid workforce were more likely to drink than those not in the workforce (89% compared to 75%). Regarding short term risk of harm, although the majority of employed people abstain or drink at low risk, 43% of the workforce drink at risky or high risk levels (18% at least yearly, 17% at least monthly and 8% at least weekly), (see Figure 1). Higher proportions of workers drink at risky (8.4%) or high risk (3.1%) of long term harm levels.



Source: Roche & Pidd (2006a) *Workers' Patterns of Alcohol Consumption*

Figure 1: Proportion of workforce aged 14 years and over drinking at risk of harm in the short term.

35. The authors found that workers in the hospitality (15% frequently) and mining (22% occasionally, 22%infrequently) industries are more likely to drink alcohol at risky and high risk levels for short term harm. Hospitality (13%) workers are more likely to drink at risky and agricultural (6%) industry workers are more likely to dink at high risk level for long term harm respectively (Roche & Pidd 2006a).

36. Tradespersons are more likely to drink at risky and high risk levels for short term harm (20% infrequently and 13% frequently). Unskilled workers and tradespersons are more likely than other occupations to be long term high risk drinkers (5.4% and 4.6% respectively) (Roche & Pidd 2006a).

37. Male workers are more likely to be high risk drinkers. However, there are some exceptions, as women are more likely to drink at risky levels if they are in hospitality, retail and financial services industries. Female managers were also more likely to be riskier drinkers. Females aged between 14 - 19 years are also more likely to drink frequently at risky and high risk level for short term harms (25%) compared with males (15%) and are also more likely to drink frequently at risky (females 18%, males 12%) and high risk (females 10%, males 4%) levels for long term harms compared to males in the same age group (Roche & Pidd 2006a).

Traumatic Injuries Caused by Alcohol Use

38. Pidd et al. (2006(a)) used the National Hospital Morbidity Database (NHMD) to estimate the number of work-related injuries that require hospital admission. To ascribe work-related and alcohol related attributes to episodes of hospital admission the authors determined that:

- work-relatedness would be estimated by obtaining the records in which activity equals "working for income" or funding source equals "workers' compensation". As 98% of the work-related cases involved people aged between 15 – 64 years, the analysis was restricted to this age group;
- alcohol-relatedness would be estimated using a standard set of conditions, age and gender specific attributable proportions which was provided by Chikritchs, et al. (2002).

39. In the NHMD there were 26,339 work-related injury cases in 2001-02. Of these cases, 1,965 (7.5%) were estimated to be alcohol related. The authors noted that although good evidence for the existing estimates of the attributable proportions for work-related injury in Australia is lacking, the available information suggests that general population estimates are likely to *overestimate* work-related cases. The authors concluded, from the available research, that a realistic attributable proportion for alcohol related injuries from falls and road injury was 8%. When they used this proportion they found that 1,162 (4.4%) work-related injuries from falls and road injury cases were related to alcohol.

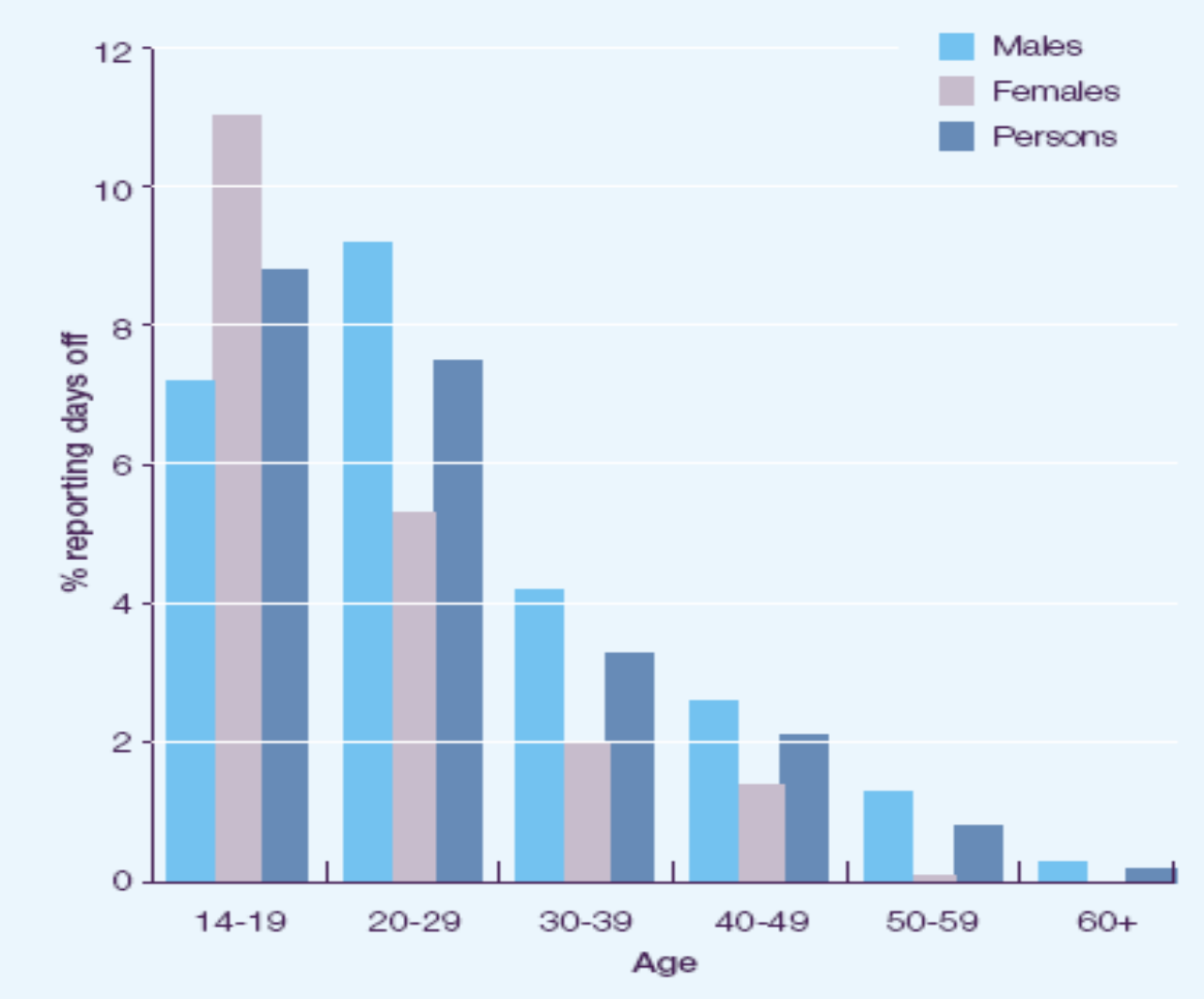
40. English and Holman (1995), in their work to quantify drug related mortality and morbidity in Australia, concluded that there was sufficient evidence to suggest an association between alcohol use and occupational and machine injuries. They estimated that there was an etiological fraction of 7% for men and women based on blood alcohol cases. "Thus, hazardous and harmful alcohol consumption is the cause of 7% of occupational and machine injuries." (English & Holman 1995 p 220).

Absence from Work Due to Alcohol Use

41. National Drug Strategy Household Survey (NDSHS) respondents were asked to report on their absences from work in the previous three months. Around 40% of workers reported absences from work for non-specific reasons and 3.5% reported absences specifically related to the consumption of alcohol. High risk drinkers (whether frequent or occasional) were twice as likely to have had a day off work due to illness or injury compared to abstainers. Risky and high risk drinkers were also more likely to have time off due to alcohol than low risk drinkers.

42. Figure 2 illustrates that males are more likely to miss work due to their alcohol use than females (4.3 %, 2.5% overall) in all age groups except the

14-19 year olds, where females are one and half times more likely to have a day off related to their alcohol use (11.0%, 7.2%).



Source: Roche & Pidd (2006b) *Workers' alcohol use and absenteeism*

Figure 2: Proportion of employed recent drinkers aged 14 years and over, reporting days off due to alcohol use, by age group and gender.

43. Industries that had the highest number of workers who are absent due to alcohol use in the survey were hospitality (7.2%), manufacturing (4.8%) and financial (4.4%). Industries that had the highest number of workers that are absent for any illness or injury were administration and defence (51%), manufacturing (44%) and education (44%). Tradespersons (6.2%) were more likely to take time off due to alcohol use, and professionals (45%) were more likely to take time off for any illness or injury (Roche & Pidd 2006b).

44. Roche & Pidd (2006b) commented that although the results indicate that only a small percentage of workers have time off due to alcohol use, approximately 270,000 workers were taking at least one day off work due to alcohol problems in the three months preceding the survey. The researchers

extrapolated that this would mean that over 670,000 days lost for three months and 2.7 million over one year with an estimated cost of $437 million (Pidd, Berry, Roche, & Harrison 2006 (henceforth Pidd et al 2005(b)).

45. The above data is based on self reported admission that an absence is due to alcohol use, and could be an underestimate. Pidd et al (2006(b)) used the same dataset to estimate the extent that absences to any illness or injury could be attributed to alcohol use. The researchers calculated the difference in absences rates for abstainers and drinkers. They then estimated the extent and costs associated with drinkers' excess absenteeism. The researchers concluded that "7.5 million days off because of any illness or injury were estimated to be alcohol-related, at a cost of $1.2 billion" (Pidd et al 2006(b) p 639). They found that 65% of these costs were incurred by workers who were low risk drinkers or infrequent or occasional short term risky or high risk drinkers.

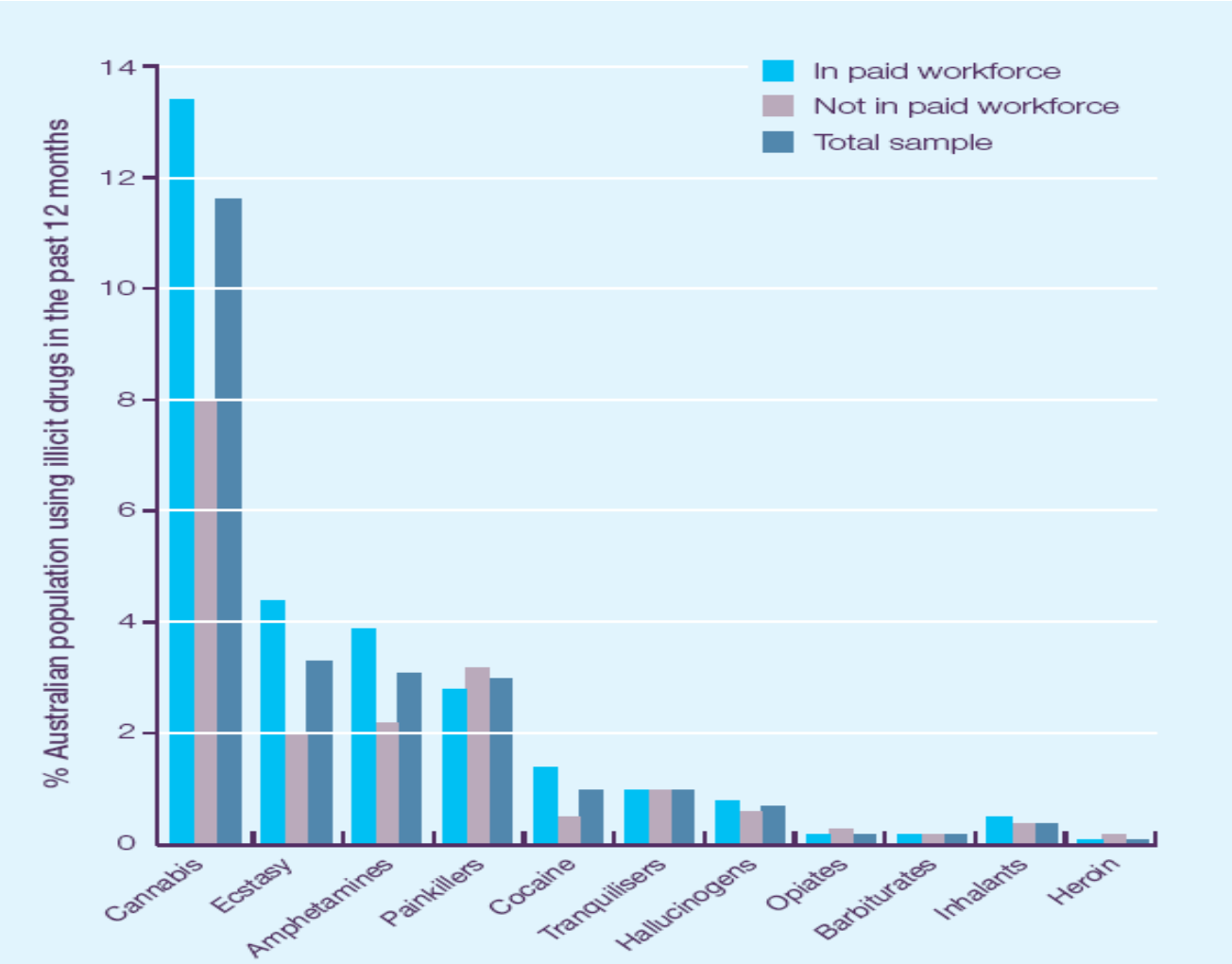
46. Pidd et al (2006(b)) noted that there are a number of qualifications on the calculation of these estimates that could lead to imprecision including:

- evidence that alcohol consumption measures used in the 2001 NDSHS underestimated the total volume of alcohol consumed;
- method used to calculate annual absences did not allow for seasonal variance;
- use of average adult wage did not allow for younger respondents that could be on youth wages and did not provide an estimation for other administration or production costs;
- there was no identification of ex-drinkers who may have ongoing alcohol related health problems, and;
- the possibility of confounding variables including that drinkers are more likely to be smokers and depression is associated with both absenteeism and alcohol use.

47. Regardless of these limitations, this research shows that workers that are low risk drinkers, and infrequent or occasional risky or high risk drinkers are more likely to contribute to costs associated with alcohol related absenteeism. This is due to the much higher numbers of workers that drink at light to moderate levels compared to the numbers of workers that are heavy drinkers.

Workplace Illicit Drug Use

48. Bywood, Pidd and Roche (2006) analysed the 2004 NDSHS data to look at the prevalence and patterns of illicit drug use in the workforce. They found that workers were more likely to have used illicit drugs in the previous 12 months than people that were not in the paid workforce (17%, 12% respectively). Male workers were more likely to have used all the different types of illicit drugs than female workers with the exception of painkillers and analgesics (see Figure 3).



Source: Bywood, Pidd & Roche (2006) *Illicit Drugs in the Australian Workforce: Prevalence and Patterns of Use.*

Figure 3: Proportion of illicit drug users aged 12 years and over, by employment status and drug used

49. Although the illicit drug of choice for workers across all industries was cannabis, followed by ecstasy, amphetamines, painkiller and cocaine, there were differences in the prevalence of illicit drug use across the industries. Hospitality workers (31%) were more likely to have used an illicit drug in the past 12 months, followed by construction (24%) and retail workers (21%). The lowest levels of illicit drug use were found in the following sectors; education (9%), mining (12 %) and administration (12%). Tradespeople (27%) and unskilled workers (22%) were more likely to have used any illicit drugs in the last year (Bywood et al. 2006).

50. Around 2.5% of the workforce reported going to work under the influence of illicit drugs. This was more prevalent in the younger age groups (5.9% for 18 - 29 years and 4.5% for 14 - 17 years) and in males (3.5%). Consistent with the Pidd et al (2206a) finding for use of alcohol, workers in hospitality (7.7%) and construction (4.2%) were more likely to attend work whilst under the influence of illicit drugs (Bywood et al. 2006).

Absence from Work Due to Illicit Drug Use

51. The number of workers that report having time off work because of their illicit drug use is quite small (1%). However, workers who used illicit drugs were significantly more likely to take time off for any illness or injury (47% of workers over the 3 month period) compared to people who did not use drugs (38%). This trend is similar for both men and women and across the age groups. Workers aged between 14 - 17 years (3.4% males, 6.4% females), retail workers (1.8%) and hospitality workers (1.7%) are more likely to take time off specifically because of their illicit drug use (Bywood et al. 2006).

Traumatic Fatalities Caused by Alcohol or Illicit Drug Use

52. The National Occupational Health and Safety Commission (NOHSC) (1998) examined coroners' reports for 1,761 workplace deaths in the workplace or on roads during work between 1989 and 1992. Information on blood alcohol levels was available for 1,235 (70.1%) of these deaths. NOHSC found that:

- alcohol appeared to contribute to at least 4% of all working deaths. In over a third of the 4% of deaths, alcohol had been consumed at least partly in connection with work, either during normal duties or at work-sponsored functions;
- around 2% of working deaths appeared to be contributed to by illicit drugs. Drugs found to have contributed to fatal incidents included amphetamines, cannabis, barbiturates and narcotics. Stimulants (amphetamines or related compounds) were found to have contributed to 14 deaths, all of them motor vehicle accidents on public roads; and
- around 5% of working deaths occurred in part because of one or both of these groups of substances (NOHSC 1998).

International Data

53. Recent data on workplace alcohol and drug use available from the United States of America (U.S.) and the United Kingdom (U.K.) corroborates the above Australian data. In 2000, the U.S. had around 107 million people aged 18 to 49 years in the workforce with approximately 88 million who were employed in full time work. Among these full time workers approximately 8.1% reported heavy alcohol use[3] and 7.8% illicit drug use in the last month before they were surveyed. Males (11.4%) were three times more likely than females (3.6%) to have drunk heavily. Over twice as many 18-25 year olds (13.5%) drank heavily compared to 35 -49 year olds (6%) and this younger group was over two and half times more likely to have used illicit

[3] Heavy alcohol use is defined as five or more drinks on the same occasion, on at least 5 different days, in the past 30 days. Illicit drugs refers to marijuana, cocaine, heroin, hallucinogens, inhalants, and non-medical use of prescription-type pain relievers, tranquilizers, stimulants, and sedatives.

drugs (14.9% compared to 5.5%) (See Table 2) ((Substance Abuse and Mental Health Services Administration (SAMHSA) 2002).

54. Workers in the construction and mining industries (15.7%) followed by manufacturing (9.4%), service (9.4%) and wholesale and retail industries (9.2%) had the highest rates of heavy drinking. Three of these industries also had high rates of illicit drug use (12.3% for construction, 10.8% for service and 9% for wholesale and retail). Of the occupations, precision production, craft and repair workers (12.6% alcohol, 11.2% illicit drugs) and operators, fabricators and labourers (11.2% alcohol, 8.6% illicit drugs) were more likely than other occupations to have drunk heavily and to have used illicit drugs (SAMHSA 2002). Over eight per cent of workers who drank heavily in the last month (compared to 6.8 % who did not) and nearly 12% of workers who used illicit drugs in the last month (compared to 6.5% who did not) missed work for more than two days in the past month due to illness and injury (See table 2) (SAMHSA 2002).

Table 2: Prevalence of Substance Use, Abuse or Dependence among Full-time Employed Workers Aged 18 to 49:

		Rates of use (%)			
	Estimated population (000s)	Past month heavy alcohol use	Past month any illicit drug use	Past year dependence or abuse of alcohol	Past year dependence or abuse of illicit drugs
TOTAL	87,672	8.1	7.8	7.4	1.9
Male	50,466	11.4	9.2	9.9	2.4
Female	37,206	3.6	5.9	4.0	1.2
Age groups					
18-25	15,190	13.5	14.9	13.5	5.3
26-34	24,464	8.7	7.9	8.2	1.8
35-49	48,017	6.0	5.5	5.1	1.0
By type of occupation					
Executive, Administrative, and Managerial	14,822	6.5	6.5	6.9	1.1
Professional specialty	13,222	4.9	4.7	5.3	1.4
Technical and sales support	13,239	8.9	8.0	8.2	1.8
Administrative support	10,714	4.9	6.9	5.5	1.9
Services	10,047	7.7	9.7	8.0	2.3
Precision production, craft & repair	10,786	12.6	11.2	9.2	2.5
Operators, fabricators, and Laborers	12,428	11.2	8.6	9.3	3.0
By type of industry					
Construction & mining	8,267	15.7	12.3	10.9	3.6
Manufacturing	14,610	9.4	6.7	6.7	1.7
Transportation, communications, and other public utilities	6,541	7.6	7.2	8.2	1.4
Wholesale and retail	15,881	9.2	10.8	10.5	2.9
Service – business & repairs	7,883	9.4	9.0	8.7	1.9
Finance, Insurance, Real Estate, and other services (personal and recreation)	8,320	5.9	7.7	7.4	1.7
Services – professional	19,125	4.0	5.0	4.4	1.3
Government	4,252	6.3	3.7	3.3	0.6

Source: SAMHSA (2002) *The NHSDA Report. Sept 6 2002*..

55. Recent research on current U.S. federal regulations and alcohol use for safety sensitive jobs found that the regulations did not adequately consider the impairment from low dose alcohol and next day effects of heavy drinking. Frone (2006) found that 15% of adult workers had at least once in the last year consumed alcohol before work, nearly 2% had consumed alcohol at work and 7% had worked with a hangover. They found that there was

evidence to support that there can be impairment from even low levels of alcohol.

56. Research in the U.K. (Smith, Wadsworth, Moss & Simpson 2004) showed that 38% of workers had used illicit drugs in their lifetime; 13% in the previous 12 months and 7% in the last month. Cannabis was the most commonly reported drug (11%) used in the last year, followed by ecstasy, amphetamines and cocaine (2.5%, 2.3%, and 2.2% respectively). The researchers found that in the UK, illicit drug users in the workforce were more likely to be smokers, heavy drinkers, males under 25, single, well educated and reside in a more affluent urban area.

57. Smith et al. (2004) found that there is an impact of drug use on cognitive performance, which varies with the type of drug or drugs used. They also found associations between cannabis use and work-related road traffic accidents and drug use and non-work accidents. However, they did not find an association between drug use and workplace accidents. This last finding could be a result of the composition of the respondents. Over a quarter were manual labourers, 57% were women and the respondents were predominately of a Caucasian ancestry (Smith et al. 2004).

Australian Legislative Requirements

58. Across Australia, there are a number of acts or regulations that govern the use of alcohol and drugs in the workplace. This legislation is generally applicable to safety critical jobs. Most jurisdictions have legislation or regulations that outline the restrictions on use of alcohol and illicit drugs for road transport, rail maritime and mining occupations. Some jurisdictions also have alcohol and other drug restrictions in their police legislation (see Appendix A, Table 1 for further details).

59. In regard to the general OHS acts and regulations in each state and territory, only South Australia, Tasmania and Queensland (in regard to contractors' obligations to prepare a construction safety plan and the use of alcohol on site) mention drugs and/or alcohol as a specific issue. The other states and territories do not have any specific mention of alcohol and drugs. However, it is implied in the duty of care statements. There is no specific legislation or regulations on the use of impairing substances (alcohol and drugs) and the use of plant (either mobile or static).

60. Most jurisdictions have alcohol and drug use standards, codes or guidelines. Some of these documents pertain to specific industries or occupations. See Appendix B, Tables 1-3, for details and a comparison of the information available.

Indicative Australian Case Law

61. There have been a number of cases on drug and alcohol issues brought before the various Industrial Relations Commissions in Australia. A number of indicative cases that address the applicability of companies developing and using drug and alcohol policies are outlined below.

BHP Iron Ore Pty Ltd v. Construction, Forestry, Mining and Energy Union Western Australian Branch.

62. Random drug testing policies were first tested in Australia when BHP Iron Ore Pty Ltd presented its programme for drug testing to the Western Australian Industrial Relations Commission for approval in 1998. BHP had developed the programme with the assistance of employees and unions with the exception of the Construction, Forestry, Mining and Energy Union (CFMEU), who opposed the programme. The programme that was developed, stipulated that employees would be required to submit a urine sample if they were randomly selected to undertake the test. If they tested positive they would be sent home on leave with pay, if they recorded a second positive result within two years, they would be sent home on leave without pay. If they had a third positive result within the same period, their employment with the company would be up for review.

63. BHP advised that a counselling service would be available for anyone, not just the people that have tested positive, and that any records would be kept in strict confidence for two years, and destroyed thereafter. BHP also set levels for cannabinoid metabolites at twice the Australian standard (*DR 06557:* Procedures for specimen collection, detection and quantitation of drugs of abuse in urine in an attempt to account for occasional or social use. It also argued that although the tests were not impairment tests, the higher levels allowed would be an indicator of potential impairment if an employee tested positive. BHP argued that the programme was needed to satisfy its obligation under the *Mining Safety and Inspection Act (1994) WA* (this act prohibits a person being in a mine whilst under the influence of alcohol or drugs) and the OHS duty to maintain a safe workplace.

64. The Full Bench of the Commission ruled that the programme was reasonable. They gave the following reasons for their ruling:

- that the programme was accepted by the majority of unions and employees;
- that safeguards against wrongful use of the test results were in place, and;
- the company had agreed to review the policy if new technology or research found a less intrusive test.

Australian Railway Union of Workers, West Australian Branch and Ors v. West Australian Government Railways Commission

65. The Australian Railway Union of Workers complained about the extent and nature of the drug testing regime of WestRail's proposed policy. Commissioner Beech approved the WestRail scheme although he said that this decision was not a precedent for random testing in all workplaces. WestRail's statutory obligations and its duty of care to provide a safe workplace were powerful considerations in the decision to approve the programme. WestRail's programme had similar processes to BHP with safeguards for employees who returned a positive result. However, the level set for cannabinoid metabolites was the Australian standard, so was half the level set by BHP.

James Charles Debono v. TransAdelaide

66. Mr Debono was involved in a fatal accident involving a pedestrian at a level crossing. TransAdelaide was satisfied that Mr Debono was not at fault in the accident. As per procedure, Mr Debono was required to undergo a drug test following the accident. The result showed a negative result for alcohol and a positive result for cannabis. The Company decided to dismiss Mr Debono even though the test only showed that Mr Debono had used cannabis in the days prior to the test. The test could not show that he was under the influence of the drug and impaired at the time of the accident.

67. TransAdelaide maintained that their draft alcohol and drug policy deemed that a positive result for cannabis meant that the person was impaired. It also maintained that adverse publicity from the accident had brought the company into disrepute. Mr Debono maintained that he was not aware of the policy and the deeming clause. In response, the Commissioner said that it was not reasonable that all personnel know about the policy just because a notice had been posted. He found that there was no valid reason for Mr Debono's dismissal and that Mr Debono was not responsible for the adverse publicity to the accident. Mr Debono was reinstated to his job with the company.

Worden v. Diamond Offshore General Company

68. Mr Worden was dismissed when he returned to work after an off-duty period, due to a positive drug test result which was obtained after the conclusion of his previous work period. The Commissioner observed that:

- there was no evidence to suggest that the company had ever conducted any random testing (in spite of the company's stated policy);
- the company had hired people who had shown a positive drug result in their pre-employment testing;
- their drug and alcohol policy was rarely enforced, and;

- the policy did not mention that the consequences of a positive result could lead to dismissal.

69. The Commissioner also commented that the company's expert witness was not able to confirm whether the marijuana that Mr Worden had consumed was whilst on duty or not. As such, the Commissioner ruled the dismissal as unfair and awarded Mr Worden compensation for lost wages.

Pioneer Construction Materials Pty Ltd v Transport Workers' Union of Australia, Western Australia Branch

70. Pioneer Construction Materials Pty Ltd introduced a policy for fitness for duty which required that employees undergo random urine testing for illicit drugs and alcohol. The employees undertook industrial action when two employees were stood down for refusing to take the test. The company delayed the introduction of the policy while the Western Australian Industrial Relations Commission dealt with three issues relating to the policy which included:

- the company's right to conduct urine testing (as opposed to saliva testing sought by the union);
- the requirement that employee's declare and provide an appropriate doctor's certificate in respect of any over-the-counter medication which could lead to a positive test; and
- the stipulation that where a health assessment is required by the respondent and an employee chooses not to attend for assessment with one of the company recommended medical practitioners, that an employee's attendance at his/her own medical practitioner is at his/her expense.

71. The Commission found that the proposal to conduct urine testing was reasonable, particularly as there is no standard in Australia that covers detecting the presence of illicit drugs in saliva but there is for the detection of illicit drugs in urine. The company stated it would consider saliva testing once a standard was endorsed. The Commission also found that it was reasonable that employees provide an appropriate doctor's certificate in respect of any over-the-counter medication which could lead to a positive test, as long as the company paid the employees' reasonable medical costs. The Commission endorsed the employees' right to attend their own medical practitioners, and found that company's subsequent decision to pay an employee's reasonable medical costs of obtaining a health assessment from their own doctor was also reasonable.

Commissioner of Police v. Dobbie

72. NSW Police Officer Dobbie was dismissed after he was charged with a high range drink driving offence. This was the officer's second charge in four years. The New South Wales Commissioner of Police appealed an earlier order that reinstated Officer Dobbie after he had given an undertaking that

he would abstain from drinking alcohol and enter into a deed specifying a random drug testing regime that would be at the Commissioner's discretion. The Police Commissioner maintained that the NSW Industrial Relations Commission's (IRC) initial decision would set a precedent that could change long standing jurisprudence in unfair dismissals and that a contract of employment could not lawfully include conditions of this type.

73. In September 2006, the full bench decided that it was entirely within Justice Marks' purview to accept a voluntary undertaking from the officer and that there was nothing novel in the Commission imposing conditions in the context of reinstatement in unfair dismissal claims. They rejected the NSW Police's claim about employment contracts not being able to bind an employee's out of hours activities given the officer had voluntarily agreed to abstain. The IRC decided that the testing regime could become onerous and made a new order restricting breath testing to the hours that the officer was on duty.

Transport Industry - Mutual Responsibility for Road Safety (State) Award and Contract Determination

74. Over the last two years, the Transport Workers Union (TWU) have maintained that there is a need for greater occupational health and safety regulation for long distance road transport. The IRC decided on 2 November 2006 in favour of the TWU's four requirements. These requirements include safe driving plans, accountability, compulsory basic training that covers occupational health and safety and a requirement that employers and principal contractors implement workplace drug and alcohol policies.

75. This was a very significant decision, as in the past, the Commission had a cautious and non-interventionist approach with respect to creating award based obligations directed at occupational health and safety. These obligations were set out in an industrial award that applies to employers in the industry. The new arrangements started on 21 November 2006.

Summary of Legal Findings

76. The above case law demonstrates that it is reasonable for employers to implement alcohol and drug policies, including testing, on the principle that the policy helps in the provision of a safe place of work. The policies need to:

- be clear, easy to understand, written in plain English and applicable to the entire workforce from executive/owners to apprentices/trainees;
- be communicated to all employees who should indicate their understanding of the consequences of the policy, preferably in writing;
- provide regular reminders to bring the policy to the attention of the employees.

Findings from the Literature

Influence of Workplace Culture on Alcohol and Drug Use

77. Cook and Schlenger (2002) maintain that the workplace programmes have played an active role in prevention, detection and control of alcohol and illicit drugs use in America. They suggest workplace programmes are useful as both a large proportion of users are also workers, and the use of drugs and alcohol can have a negative impact on workplace health, safety and productivity. They also reported that the workplace can be an environment where information about the prevention of substance use can be easily accessed and workers can then share information with their family and community.

78. They concluded that although the efficacy of workplace drug prevention programmes have improved in the last decade, there is still a need for research on these intervention types. They concluded that "Studies that are able to wed more comprehensive interventions to more vigorous methodologies should be instrumental in improving the infrastructure of substance abuse prevention in the workplace" (Cook and Schlenger 2002 p 137).

79. The International Labour Organization (ILO) (2003) reinforces Cook and Schlenger's (2002) reasons for the success of workplace programmes. The ILO also maintains the advantages of using workplace drug and alcohol initiatives include:

- increasing the potential to reach a wide range of people;
- workplaces mirror the problems in the community;
- workers are generally a captive audience;
- continued employment is a strong incentive to participate; and
- the workplace can be a source of emotional support for helping employees successfully overcome problems of dependency.

80. The IIDTW (2004) recommended that employers do have a legitimate interest in their employees' illicit drug and alcohol use. However, the IIDTW recommended that this interest should be limited to the following circumstances:

- where employees are engaging in illegal activities at work
- where employees are intoxicated during work hours
- where the use of illicit drugs or alcohol have a demonstrated effect on the employee's performance that goes beyond a threshold of acceptability,
- where the nature of work is such that any responsible employer would be expected to take reasonable steps to minimise risk of accidents; and
- where the nature of the work is such that the public is entitled to expect a higher standard of behaviour from the employees and/or

there is a risk of vulnerability to corruption e.g. the police or prison service.

81. They also concluded that drug or alcohol problems are a health and welfare issue and should be treated as such. Wherever possible, employees in safety-critical functions should be redeployed in other roles and be provided with help and support until they are considered fit to resume their duties. They suggested that good all-round management is the most effective method for achieving enhanced safety, low absentee rates, higher productivity and low staff turnover.

82. The ILO's *Management of alcohol- and drug-related issues in the workplace* code of practice was first published in 1996 and generally reinforces the above information (ILO 2003). It also notes that:

- the stability from holding down a job is an important factor in the recovery from alcohol and other drug problems, and;
- certain job situations may contribute to alcohol and drug related problems and employers and workers need to identify these situations and take appropriate action to prevent or remedy the situations.

83. Pidd (2003 cited in Pidd et al. 2006(a)) outlined a cultural model for the basis of workplace alcohol consumption. This model shows that the workplace culture can either support or discourage risky alcohol use by the use of workplace controls and conditions. While, workplace culture will be impacted by external factors and the individual's alcohol consumption, workplaces can play an important role in positively influencing alcohol attitudes and cultures (Pidd et al. 2006(a)).

84. Miller, Zaloshnja and Spicer (in press) looked at the impact of a peer based prevention programme coupled with random drug and alcohol testing on the number of injuries in a transportation company. They state that the research has major limitations in that it cannot be generalised to the wider workforce and that there was no within company comparison group. In spite of these limitations, they are confident that peer based alcohol and drugs prevention programmes have the potential to change workplace cultures which subsequently help reduce injury and workplace harms. They found that in their analysis that random drug testing and the programme were complementary and interdependent and could not be examined separately. They suggest that the models show that the programme was the larger contributor to injury reductions, with larger coefficients than the drug testing.

85. They maintain that to succeed, peer based programmes require sustained and substantial corporate investment and strong commitment from unions. They concluded that "changing workplace social norms and using a team based approach may decrease the occurrence of a variety of problem

behaviours, in addition to workplace substance abuse, that put workers at risk of injury" (Miller, Zaloshnja & Spicer in press p 7).

86. Although the culture in each workplace is different, workplaces will have similar goals for initiating drug and alcohol policies. They will eliminate or reduce the adverse effects on productivity and ensure they fulfil their legal obligations to ensure a safe working environment for all. The policies will also address similar issues including the need to ensure that all employees are aware that:

- drug and alcohol use can be a problem
- the processes for intervention are confidential; and
- there is access to treatment.

Workplace Alcohol and Illicit Drugs Policies

87. Pidd et al. (2006(a)) maintain that one of the most effective ways that workplaces can deal with alcohol abuse issues is to develop and implement an alcohol policy. Generally these policies fall into two categories; a social control approach that deals with deviant behaviour and focuses on alcohol dependent workers, and a harm minimisation approach which looks at the possibility that all workers could be at risk from alcohol related harm. The authors suggested that workplace policies "play an important role in determining employees' attitudes and behaviours concerning alcohol use" (Pidd et al. 2006(a) p 115). A workplace study in 2003 found that apprentices in workplaces that had a workplace alcohol policy were found to have significantly lower levels of alcohol consumption compared to apprentices that worked in places that did not have a policy (Pidd 2003, cited in Pidd et al. 2006(a)).

88. A substantial factor in whether people will use any aspects of a drug and alcohol programme is the stigma that is still attached to the use of such programmes. Cook and Schlenger (2002) maintain that if programmes are to be effective, approaches need to be adopted that overcome the stigma. One way of doing this is to embed it into a less stigmatised programme. For example placing a drug and alcohol prevention element into an overall health programme.

89. In the second phase of the South Australian project on drug and alcohol use in the workplace, Breugem et al. (2006) conducted telephone interviews with 110 workplaces (55 workplaces declined to answer the survey). They found that the vast majority of workplaces (95%) that they surveyed had a policy or at least one specific strategy in place to address alcohol and other drug use. There was a mixture of formal and informal approaches to address drug and alcohol use issues. Employee Assistance Programmes or other counselling services were the most common strategies utilised with around half of the workplaces also utilising drug and alcohol testing. The authors discovered that workplaces particularly want information that will clarify their

rights and responsibilities in relation to drug and alcohol management but are reluctant to consider implementing additional strategies.

90. Although the researchers used a non-probability sampling approach to select the workplaces for this study, there was a higher proportion of small (50%) and medium workplaces (35.5%) that declined to participate in the survey (only 2.9% of larger workplaces declined participation). The workplaces that responded in the survey consisted of 24% small, 44% medium and 31% large businesses. The initial letter that contacted the workplace outlined that the researchers were looking for information on the strategies used to address alcohol and drug issues. As such, workplaces that did not have policies might not have replied. They might have felt that they had limited input to give because they did not have a policy on alcohol and drugs. Although 95% of workplace that responded has some strategies to address workplace alcohol or illicit drug use, a higher percentage of the smaller workplaces did not have a strategy for drugs and alcohol.

91. The researchers asked how workplaces with written policies made their staff aware of the policies. However, there was no information available from the employees on their level of awareness of any of the policies. Some of the workplaces have had policies in place for more than five years and as such, their employees could have a low awareness level of the policy especially if this was only communicated at the time of their recruitment or poorly communicated when the strategies were introduced.. There was no information gathered on the informal policy communication methods. Therefore, more information is needed on the employees' awareness of these policies.

92. The researchers acknowledged that the results of the research cannot be extrapolated to the broader population, but provides a "useful snapshot of the experience of a small number of South Australian Workplaces and inform further research which may be extrapolated to cover a greater proportion of South Australian workplaces." (Breugem et al. 2006).

Workplace alcohol and illicit drugs interventions

93. There are a number of interventions that can be included in a workplace policy to help in combating alcohol and drug use issues. These include Employee Assistance Programmes (EAPs), health promotion, education and training, brief interventions, peer assistance programmes and drug and alcohol testing.

Employee Assistance Programmes (EAPs)

94. EAPs evolved from the occupational alcohol programmes which originated in the early 1940's, involving larger industrial firms and staffed by recovering alcoholics. Historically, they have been the preferred option in dealing with drug and alcohol problems that arise in the workplace. In

Australia, they are used in early intervention and for initial treatment and assessment programmes. Although people with severe problems are generally referred to specialist alcohol and other drug agencies, EAPs are commonly used for the initial counselling and assessment services for people with alcohol or/and drug problems.

95. EAPs generally aim to provide easy access to counselling and training services for employees and to provide support and training for supervisors and management. They generally offer counselling and other services for a number of issues including family and relationship problems, financial problems and career counselling. They can facilitate referrals for diagnosis, treatment and assistance, case monitoring and follow up services. EAPs are easily accessible for employees and provide a confidential service.

96. In a review of evidence on prevention of substance use in Australia, Loxley, Toumbourou, Stockwell et al. (2004) found that although a majority of Australian employers provide and support the use of EAPs, there have been no substantial evaluations of the effectiveness of the use of EAPs for treating alcohol and drug problems. Further research is needed to substantiate the use of these services for alcohol and drug problems.

Health Promotion

97. Health promotion has become a feature of many countries' health policy, mainly due to the rise in chronic diseases, obesity and physical inactivity and the aging population. Given the high proportion of the population who are employed, the workplace could be considered an ideal place to deliver health promotional messages to a large number of people. Health promotion programmes usually provide general health information and teach participants how to improve or maintain their health. They generally concentrate on weight loss and exercise, general nutrition and smoking cessation.

98. Research on workplace health promotions has shown their effectiveness depends on the interest and willingness of the employers to support the programmes and on the employees' willingness to participate. The programmes need to:

- be visibly and enthusiastically embraced from the top down;
- involve employees, at all levels, in the development and implementation;
- focus on a defined modifiable risk that is a priority for workers, and;
- be tailor made for the characteristics and needs of the recipient (Harden, Peersman, Oliver, Mauthner, & Oakley, 1999).

99. Whilst the recommendations given by Harden et al. (1999) are broad, they found little evidence that health promotions had been applied in practice, and little evidence on the efficacy of these programmes. Thus, these programmes may have limited value in the prevention of alcohol and

drugs in the workplace (Loxley et al. 2004). Further research is needed to evaluate the use of these programmes in the prevention of alcohol and other drug use.

Brief interventions

100. A brief intervention is a technique to help reduce alcohol misuse. It works in two ways; by changing the way that people think of their alcohol consumption, and to provide people with the skills to consume alcohol in a safe way. It seeks to prompt individuals to think differently about their use of alcohol and ultimately consider the benefits arising from a change in their consumption patterns.

101. Brief interventions are usually based on motivational interviewing techniques which try to be both non-judgmental and non-confrontational. The technique acknowledges that people may be at different stages of readiness to change their alcohol consumption patterns, including those who:

- believe that there is not a problem;
- realise that they have a problem but do not want to do anything about it; or
- are currently doing something about their alcohol consumption problem, eg are actively trying to reduce their level of consumption and to sustain the reduction.

102. Motivational interviewing tries to raise the person's awareness of the potential problems, consequences and risks due to patterns of alcohol consumption. The technique attempts to address the specific issues that people are facing at any of the particular stages outlined above.

103. Loxley et al. (2004) found that there is a need for further investigation on the use of brief interventions in the workplace. However, given the wide evidence base for the usefulness of these interventions in other situations, the researchers maintain that they could have an effect in the workplace.

Education and training

104. The evidence for giving factual information on alcohol and drug use shows that using this strategy on its own is not effective (Loxley et al. 2004). However, although the efficacy of providing information on alcohol and illicit use to reduce use or harm is limited, education and training has an important role to play in raising awareness of workplace policies, and of the health and safety implications associated with alcohol and illicit drug use. It can also help in building the capacity of supervisors and other employees to identify and deal with alcohol and illicit drug related harm in the workplace

Drug and alcohol testing

105. In recent years, the incidence of drug (including alcohol) testing has risen, with more companies and other organisations instigating a testing regime, especially for safety critical occupations. The most common methods of testing are breath testing, urine analysis and more recently used saliva tests. It is also possible to test blood, which is a more invasive and complex procedure that is not performed regularly. The number of companies that advertise drug testing kits and their administration of the test or the analysis of the samples has also increased significantly over the last couple of years.

106. Nolan (1997) concluded that technological improvements might eventually make urine testing obsolete. The developments in saliva testing and impairment monitoring systems which were starting to emerge could help negate some of the concerns expressed by employees and unions.

107. The motivation behind illicit drug and alcohol testing policies is the identification of employees whose consumption of alcohol and/or drugs could cause safety or productivity problems. Testing can be instigated; for people before employment, after a specific accident or incident, or as a random test where everyone in the company has the same chance of being asked to take a test. Workplace policies that include testing can take a long time to implement, although it seems that it is generally random testing programmes that are controversial. However, the random testing for safety critical employment is gradually becoming more commonplace and accepted.

108. Under the duty of care employers need to provide a safe workplace. Drug and alcohol testing could be seen as a reasonable step towards this obligation. Evidence shows that some employers saw drug testing in purely financial terms as a profit maximisation technique. Cranford (1998) believes that the perception that testing is in the best financial interest of the company has made drug testing the issue it is today.

109. There are concerns of employee privacy. The literature suggests that employees' attitudes can vary. The perceived fairness of the testing regimes and the type of tests used can affect employees' willingness to accept drug testing within their workplace. Employees that are aware that drug testing does not measure impairment are more likely to view testing as an infringement of their privacy (Francis, Hanley & Wray 2003).

110. Employees are more likely to support tests that result from an accident or incident than random testing. Research has shown that these attitudes result from the individual's belief of the severity of the drug problems and how they perceive that testing supports or threatens these beliefs. There is also evidence that attitudes towards drug testing are also influenced by social factors including education, age, political attitudes, income, knowledge, personal drug taking history and family and friends' attitudes and

views (Gilliom 1994, Butler 1993). Gilliom (1994) also maintains that opposition to the rise of drug testing in the USA never fully emerged because the image of a national drug crisis made people feel that drastic measures were needed, i.e. people were doing their part in the 'war on drugs'.

111. A number of concerns have been identified with drug testing:

- tests detect past illicit drug use, not current use that could impact on work.
- the Australian Standard AS/NZS 4308-2001 sets the procedures for the collection, detection and quantification of illicit drugs in urine and set out a chain of custody for the samples to adhere to. There are no Australian standards for drug testing on hair, sweat or saliva (though a draft standard for saliva is currently undergoing public consultation and comment phase). Laboratories that perform urine testing analysis can be accredited against the standard; however this accreditation is not compulsory.
- the issue of false negative and false positive test results.
- testing regimes are considered to be the quick fix approach that ignores the underlying occupational health and safety issues (Loxely et al. 2004, American Council of Civil Liberties 2002, Bennett 2002, Holland, Pyman & Teicher 2005).
- drug tests do not test impairment. Impairment from drug use can also come from withdrawal from the drug, where nothing is detected in the test but the effects of not having the drug (including alcohol) will have a significant impact on the capability of a worker to work in a safe and competent manner, and
- most workplace drug tests programmes are to detect illicit substances rather than alcohol. Bennett (2003) considers this to be misaligned, with the evidence pointing to greater negative effects of problematic alcohol use on productivity. He also stated that this could also be a barrier to effective management of alcohol problems.

112. There are concerns that drug testing can have a major impact on the morale of the workplace and that employees have a perceived impression that they need to continually prove their innocence. This could affect the work attitudes and behaviour of employees, including decreases in motivation, negative attitudes to managers, owners and the company, and suspicion and mistrust in processes and management decisions (Francis, Hanley & Wray 2003, Beck 2001).

113. The Parliament of Victoria's Drugs and Crime Prevention Committee (DCPC) (2006) maintains that drug testing is not a universal remedy for any drug related harms in the workplace. The committee also states that experts and research have shown that addressing alcohol use within the workplace needs the same comprehensive policies that are required in all areas of drug abuse. For any area of alcohol and drug policy, single solutions are generally

unable to comprehensively address the harms associated with drug and alcohol use.

Efficacy of Alcohol and Drug Testing

114. Pidd et al. (2006(a)) maintain that although there is limited evidence that testing can have an effect on employees' alcohol consumption and/or illicit drugs use, reviews of the effectiveness of testing have concluded that most of the research is methodologically flawed and evidence of effectiveness is weak. This finding is also supported by Loxley et al. (2004) who found that there was no "scientific evidence of improvements to either workplace productivity or workplace safety from the implementation of urine testing programs, although there are numerous anecdotal reports of weak, poorly or uncontrolled evaluations reporting benefits" (Loxley et al. 2004, page 173).

115. The IIDTW (2004) found that there was no clear evidence on the deterrent effects of drug testing. The report mentioned that many of the submissions to the Inquiry detailed the costs of drug testing, which include not just the financial costs but also costs associated with the divisive nature of testing and the loss of responsible and capable people from employment.

116. Corry (2001) states that while some studies have shown that drug and alcohol testing can have a deterrent effect in some industries, there is little evidence to suggest that testing is a reliable means to reduce workplace drug related harms.

117. Cook, Bernstein and Andrews (1997) in their comparison of four different methods of self report and urine and hair analysis testing found that the testing methods usually provided estimates of drug use that were lower than those reported in the self report methods. However, when the tests were combined with the self reports they produced a prevalence rate that is 51% higher than the self reports alone. They concluded that the "best strategy would be to combine self report with chemical testing" (Cook, Bernstein, & Andrews 1997, p269). Although the use of hair analysis was exploratory, they also found that this method was especially prone to false negatives in cases of marijuana use, especially if use was infrequent.

118. There is better evidence of efficacy of breath testing for alcohol, which is effective at detecting current use of alcohol. Evidence is readily available to show that blood alcohol concentration greater than 0.05 produces a deterioration in performance. Impairment is mostly in attention, concentration, coordination and perceptual processes. However, the limitations associated with the studies performed cast doubt on whether they reliably confirm that alcohol testing programmes can lead to improvements in productivity and safety (Loxley et al. 2004). Conversely, Howland, Almeida, Rohsenow, Minsky and Greece (2006) found that there was evidence that there was no blood alcohol concentration that would not show

some signs of impairment. They also found that "low levels of alcohol both impair performance and produce mild euphoria that distorts perceptions of one's own performance" (Howland et al. (2006) p 396). The authors concluded that if mildly impaired workers could not recognise that they were making errors, their performance could result in a number of related mistakes that could cause bigger problems.

119. Bennett (2003) reports that there are no studies that look at the effects of alcohol testing in workplaces that have ingrained cultures of alcohol drinking. He also states that although alcohol testing may have an effect on alcohol use in such settings, it does not have any real impact on heavy drinkers.

120. Drug and alcohol testing is more commonplace in the United States of America, where government mandates and drug testing industry lobbying have cleared the way for the wholesale adoption of workplace testing. States have passed legislation to create drug free workplaces, and through the judicial use of financial initiatives, have encouraged employers to participate in drug testing regimes. Over half of the companies who have drug testing for employees do so because of government mandates or incentives (Tunnell 2004).

121. Wickizer, Kopjar, Franklin and Joesch (2004) investigated the impact of a federal drug and alcohol programme on the occupational injury rates in Washington State. The programme stipulated a reduction in the compensation insurance levies for companies that implemented a drug and alcohol policy which included drug testing in a controlled and carefully monitored setting.

122. Over a range of industries, they compared the rate of injury for companies that adopted the programme and companies that did not, before, during and after the programme was instigated. The researchers found that for the construction, manufacturing and services industries, there was a statistically significant reduction in the level of injuries after the programme was implemented and these rates stayed the same or continued to reduce in a modest way after the programme ended.

123. Wickizer et al. (2004) state that the major limitation with their study was the quasi-experimental design, i.e. that the companies self-selected into the intervention group by volunteering to implement a programme. Another aspect of the study which could also have affected the results was that the companies that implemented a drug and alcohol policy at the start of the programme were, on average, larger than the comparison companies. There was a statistically significant difference in full time equivalent employees between the companies.

Pre-Employment Drug and Alcohol Testing

124. The use of pre-employment testing in the United States is common. Over a million pre-employment alcohol tests per year are carried out under one piece of transportation legislation alone. "There is evidence that pre-employment drug and alcohol tests are related to absenteeism and possibility of accidents, but there is considerably less evidence of the link between drug testing outcomes and job performance." (Murphy & Wright 1996 p 332).

125. Murphy and Wright (1996) report that the reason that there is insufficient evidence for the connection between job performance and pre-employment testing could be that the physical states that are measured in the drug tests are only marginally related to the traits they are trying to predict.

126. There is also evidence that drug and alcohol testing, especially pre-employment testing, can have a negative impact on recruitment, with potential employees not applying for positions in the companies that routinely use drug testing. Statistics in the United States show that there is a decline in the number of entry level employees. This, coupled with the reluctance of some employees to apply to companies who drug test, could lead to a significant impact on those companies. As a result of the lack of applications, firms short of employees are lowering their recruitment standards, including the suspension of pre-employment drug testing (Francis, Hanley & Wray 2003).

Testing for Safety Critical Personnel

127. Drug and alcohol testing for safety critical personnel appears to be an accepted practice by most people, although this is an area that is also under researched. A number of industries in Australia have initiated alcohol and/or drug policies that include testing, including the mining and transport sectors.

128. One of the most notable exceptions in the transport sector is aviation, although this is currently being remedied. The Federal Government announced in 2005 that regulations that impose mandatory drug and alcohol testing would be introduced in Australia and the aim is for a range of aviation organisations to introduce alcohol and illicit drugs testing programs during 2007.

129. Personnel that would be subjected to testing include pilots, cabin crew, ground refuellers, baggage handlers, security screeners, air traffic controllers and other personnel with airside access at airports. Testing can cover pre-employment screening for safety-sensitive aviation jobs, monitoring the rehabilitation of people in safety-sensitive jobs and random testing.

130. The Civil Aviation Safety Authority (CASA) is developing a Notice of Proposed Rule Making (NPRM) to cover drug and alcohol testing. An NPRM is used to invite the public and the aviation community to comment on new

aviation rule proposals. The preparation of this document will involve industry and representative bodies, and is expected to be released in mid-2007.

131. In the United States, mandatory drug and alcohol testing of pilots was introduced under the Federal Aviation Administration's Antidrug Plan in 1988. The initial reaction to this legislation was that it appeared to lower drug use among pilots, however the number of pilots that believed the scheme was fair decreased over time. Research to determine if there was a change in attitude among pilots was undertaken in the late 1990s. It was found that pilots were more accepting of the requirement for drug and alcohol testing than they were after implementation and that the "pilots themselves felt there should be more urinalysis drug testing" (Lindseth, Vacek & Lindseth 2001 p 650).

132. Mehay and Pacula (1999) looked at the deterrent effect of a zero tolerance drug use policy in the United States military. This policy meant that if a person had a positive drug test result, they would be discharged from the military. The military had implemented a drug testing policy in 1971, where the main intent was to identify and rehabilitate illicit drug users. However, there was no consistent interpretation of the policy among the different branches of the military. This policy was adapted over time until in 1995, all branches of the military had a consistent drug testing regime with a zero tolerance policy applied to all personnel. The researchers analysed a number of surveys to determine if the policy had any effect on the use of illicit drugs by military personnel.

133. The authors found that a strict anti-drug programme was an effective means of deterring illicit drug use, both for current and potential users. They also concluded that the size of the effect differs considerably depending on the dataset used and on the age group considered. The authors also noted that the most stringent workplace drug and alcohol policy, which advocates dismissal on the first offence, still did not eliminate illicit drug use among employees.

134. These conclusions may not be reliable. The conclusions were based on using a survey to compare the frequency of drug/alcohol use in the military, (after program implementation) with the frequency of drug/alcohol use in the civilian population, not on a before and after analysis of drug/alcohol use in the military. A further problem with this methodology is that under-reporting in any survey on drug and alcohol use is generally accepted as a consequence of trying to obtain sensitive information. Under-reporting in the military may also be the result of the severe consequences that follow a positive drug result ie discharge from the military and the accompanying stigma that this could carry to future employment prospects.

135. A more comprehensive evaluation strategy for this policy would have been to compliment the survey data with administrative data on the military drug testing results and compare to drug testing results from companies or government departments that have less stringent policies. Further research is needed to determine the effectiveness of this type of policy to decrease drug use.

Requirements for the Development of a Workplace Drug and Alcohol Policy

136. To ensure the effectiveness of workplace alcohol and drug policies, research (Pidd et al. 2006(a), Duffy & Ask 2001) has shown that a number of elements should be considered, which include:

- consultation with the workforce during development of the policy
- a clear statement on how the organisation will deal with alcohol/other drug problems
- a comprehensive policy that describes the type of behaviour that is acceptable, as well as rules about consumption
- the objectives and the policy processes are clearly outlined
- an appropriate mix of interventions that could include alcohol and drug testing that are negotiated by all concerned
- the processes and personnel involved in implementing the policy are clearly specified, and
- evaluation of the policy implementation, with the results available to the whole workforce.

137. The decisions from the indicative case law cases outlined above also show that the development of an effective and broadly acceptable alcohol and illicit drugs policy, especially one that is inclusive of a drug testing regime, requires that:

- the policy needs to be clear, easy to understand, written in plain English and applicable to the entire workforce from executive/owners to apprentices/trainees
- employees must be made aware of the policy and should indicate their understanding of the consequences of the policy, preferably in writing
- regular reminders should be issued to bring the policy to the attention of employees, and
- policies when applied should be implemented with consistency and without discrimination (Nolan, 2001).

138. Davey (2006) in his presentation at the *24/7 work-related drug and alcohol national forum* in June 2006 maintained that any workplace drug and alcohol policy should be specifically designed and unique to that particular workplace, and not cut and pasted from other workplace policies. He also mentioned that the operational focus for drug and alcohol programs in the workforce is about reducing risk and ensuring that all workers are fit for work.

139. Alcohol and drug policies, including drug testing regimes, need to be part of a holistic approach to occupational health and safety within the workplace. Holland, Pyman and Teicher (2005) maintain that drug testing by itself will only address the symptoms of the problems, whilst an encompassing policy that is communicated effectively and accepted by all will be more effective in addressing the underlying causes of drug use.

Australian Jurisdictional Research

140. The South Australian Government recently completed a project titled "The Impact of Alcohol and other Drugs in the Workplace". The project, jointly funded by SafeWork SA and Drug and Alcohol Services South Australia, consisted of three parts; a literature review, a survey of employers (mentioned earlier in this report) and a workshop of key stakeholders. Three project reports were produced, one for each aspect of the project, and a number of recommendations were made that outline the priorities for future action. The recommendations are categorised under the following headings:

- provide strategic leadership to address the impact of alcohol and other drug related harm in South Australian workplaces
- identify and disseminate best practice workplace responses to alcohol and other drug related harm, through appropriate resources and service provision
- improve data collection practices that build on an assessment of current data sources
- support further research investigating the effectiveness of workplace responses to alcohol and other drug related harm (building the evidence base), and
- develop workforce capacity and ensure high quality service provision and resource development (Breugem et al. 2006).

141. The Victorian Drug and Crime Prevention Committee recently conducted an inquiry into harmful alcohol consumption and the strategies to reduce this consumption. As part of this inquiry, the Committee looked at strategies to address harmful consumption in and around the workplace. The report was released in March 2006. They concluded that until recently the extent of drug related harm in the workplace has not been understood, but this was slowly changing. Employees, employers and unions are collaborating on strategies to help reduce drug related harms in the workplace. The Committee acknowledged that punitive approaches to alcohol and other drug abuse are generally not productive. Further, there is a need to look wider than the individual who may be affected by alcohol and drugs, and place more emphasis on changing workplace culture. The Committee recommended that:

- further research into the use of alcohol and illicit drugs in the workplace, and the effects on the health, safety and productivity of workers be commissioned, and

- further education programmes for employers and employees about the effects of alcohol be developed in conjunction with unions and employer organisations (DCPC, 2006).

Industry and Union Activities

The Australian Chamber of Commerce and Industry's (ACCI) *Modern Workplace: Safer Workplace Blueprint 2005-15* is the industry blueprint for improving OHS. Although the ACCI does not have specific drug and alcohol guidelines, the blueprint mentions the need for small and medium businesses to engage in management of emerging issues. An ACCI media release in June 2006 acknowledges that alcohol and drugs use is a workplace issue. A Policy Statement released in April 2007 reiterated that alcohol and drug use can have serious impact on the workplace. ACCI stated that there are a number of ways that governments can support workplace management of alcohol and drug use including changing OHS legislation to include an obligation that employees do not by their consumption of alcohol or a drug, endanger the employee's own safety at work or the safety of any other person at work.

142. The ACTU, in association with Unions NSW, organised a Drug, Alcohol and Fatigue Seminar in 2004. Agreement was reached that a working party be established to develop a joint nationwide union position concerning drugs and alcohol testing, guided by a set of principles decided on by delegates at the seminar. The principles agreed stated that unions support a drug and alcohol policy that:

- is impairment based
- has an adequate educational component
- is non-punitive and supportive
- has rehabilitation as a key component
- helps provides a safe and productive working environment, and
- any policy must recognise that the respective parties have responsibilities.

143. The ACTU has recently (December 2006) endorsed a workplace alcohol and other drugs policy. The *"Australian Council of Trade Unions Alcohol and Other Drugs in the Workplace Policy"* aims to provide a framework for employers and employees that can be used when dealing with alcohol and drug use issues. The ACTU's policy outlines the reasons for companies to develop an alcohol and drug policy, some factors that can also affect safety and performance and employer and employee responsibilities. The ACTU advocates the training of appropriate persons who can undertake a preliminary impairment assessment on anyone believed to be impaired and includes a template for a preliminary impairment assessment form. A preliminary impairment training program has also been developed. This package includes four lessons; the first is an overview of the ACTU policy, the second is on impairment in the workplace, the third titled impairment

versus testing and the fourth on conducting preliminary impairment assessments.

144. The Building Trades Group's Drug and Alcohol Program was established to improve safety on building sites, by teaching workers to take responsibility for their own and fellow workers' safety in relation to drug and alcohol use. Workers are addressed at site meetings and shown the video "Not at Work, Mate". The Program's messages are promoted at the site through posters, stickers, T- shirts and leaflets. The key features of the Program are that it:

- has been developed by workers for workers
- uses peer-education strategies, where fellow-workers undertake interventions, and
- employs a harm reduction approach that focuses on safety and emphasises the impact on all workers of unsafe behaviour caused by drugs and alcohol.

145. Research was commissioned by the Construction, Forestry, Mining, Energy Union (CFMEU) to describe the prevalence of alcohol, drug and gambling problems in the building and related trades in the Australian Capital Territory (ACT). The Union was concerned that their use of the above Building Trades Union programme did not address the broader problems that their members may experience. They also wanted to know if workers would use a service catering specifically to them if one was available.

146. The researchers found that there is a higher than the national average use of alcohol, marijuana and amphetamines among building and related trades workers in the ACT compared with the overall population. They concluded that the work undertaken by these workers is demanding, stressful and often dangerous and that the workplace culture could encourage drinking, drug taking and gambling. They concluded that "there is a role for the union to extend its program to do more for workers and their families off worksites" (Banwell, Dance, Quinn, Davies & Hall 2006 p 176)

147. NCETA, Australia's National Research Centre on Alcohol and other Drugs Workforce Development is an internationally recognised research centre in the alcohol and other drugs field. Its core business is the promotion of workforce development principles, research and evaluation of effective practices. The Centre has produced two resources that can help in the development of workplace policies for alcohol and drugs:

- A *Training Kit to respond to Alcohol and other Drugs Issues in the Workplace* is designed to assist trainers in presenting a one day training course on dealing with alcohol and other drug issues in the workplace. It contains trainer's instructions and speaking notes, a questionnaire for course evaluation, PowerPoint slides for each session and a course handout, and;
- *An Information and Resource package to respond to Alcohol and other Drugs Issues in the Workplace* is a companion product to the training

kit and consists of two booklets on useful information, contacts and resources and seven alcohol and illicit drugs fact sheets.

148. Both of these resources can be downloaded from the NCETA website at: http://www.nceta.flinders.edu.au/workplace/workplace_resources.htm.

International Legislation, Regulations and Guidance on Workplace Drug and Alcohol Use

149. Many countries have national strategies and policies to address drug and alcohol use. These policies differ according to their governmental philosophies. However they seem to be in a similar situation to Australia, with no national comprehensive workplace drug and alcohol strategy, legislation, or regulation. Instead, countries have a number of different legislations and/or regulations that are generally specific to certain industries or occupations. Below are examples from a selection of countries.

150. The United States (U.S.) passed the Drug-Free Workplace Act of 1988. The Act requires some Federal contractors and all Federal grantees to agree that they will provide drug-free workplaces as a precondition of receiving a contract or grant from a Federal agency. The Office of the Assistant Secretary for Policy set up an alcohol and drug free workplace programme to encourage businesses and communities outside of this legislation to build a drug-free workforce.

151. To this end, a drug free workplace alliance was signed in October, 2004. The Occupational Safety and Health Administration, the Mine Safety and Health Administration and the Working Partners for an Alcohol- and Drug-free Workplace Program signed the alliance with a number of unions and associations in the construction industry. Through this alliance, the construction industry is provided with information, guidance and training material that will help the industry understand the safety and production issues created by the use of alcohol and illicit drugs.

152. As mentioned previously, the U.S. military started to implement a drug testing policy in 1971. This was adapted over time until in 1995, all branches of the military had a consistent drug testing regime with a zero tolerance policy applied to all personnel.

153. The Omnibus Transportation Employee Testing Act of 1991 is another major piece of U.S. legislation. This requires drug and alcohol testing of safety-sensitive transportation employees in aviation, trucking, railroads, mass transit, pipelines and other transportation industries. Apart from this Act, there are also a number of regulations that apply to the transportation industry that set alcohol and drug standards and requirements. These regulations have the capacity to be used to regulate cross border operations.

154. Originally, the U.S. cross border regulations for railway and other transportation workers had a provision to postpone application of the regulations to Canadian companies, so that the Canadian Government would have an opportunity to develop their own regulations. Although Canadian legislation was developed in 1990, a change in government meant that the legislation was put on hold. The Canadian Government eventually (1994) released a statement to say that legislation would not be introduced, but a programme that meets U.S. requirements would be developed.

155. Pressure was placed on the U.S. Department of Transportation from certain transportation industries to ensure that foreign based workers were subject to the same regulations as U.S. workers when in the U.S. As such in 1996, trucking and bus companies in Canada that operate into the U.S. were made subject to the U.S. regulations which set the standards and testing requirements for alcohol and drugs.

156. Other U.S. transportation regulations that have effect in Canada include:

- workers that perform dispatch and train service in the U.S., beyond a ten mile exchange area within the U.S. border, are subject to counselling services, pre-employment and random testing requirements, and
- the U.S. Coast Guard has the right to board any vessel in U.S. waters and test crew for alcohol and drugs where required.

157. Regulation changes that would place restrictions on pipeline crews who operate on cross border pipelines but remain in Canada and on foreign air crews that enter U.S. airspace have been indefinitely postponed.

158. Canada currently has no regulations governing employee drug and alcohol testing programmes. However, as a result of the U.S. cross border transportation regulations, a substantial network of professionals has developed that can administer drug and alcohol tests, and interpret the results. There are also people that can counsel individuals and train supervisors on the U.S. requirements. Employers from across Canada, whether they are subject to U.S. regulation or not, have been making use of these services and developing workplace alcohol and drug policies.

159. The United Kingdom's Health and Safety at Work etc Act 1974 has a general duty to ensure, as far as is reasonably practicable, the health, safety and welfare of employees. An employer must not knowingly allow an employee under the influence of excess alcohol or drugs to continue working, especially if it places the employee or others at risk. Similarly, employees are required to take reasonable care and ensure that others are not affected by what they do.

160. The UK Transport and Works Act 1992 makes it a criminal offence for certain workers to be unfit through drink and/or drugs while working on railways, tramways and other guided transport systems. The employers or operators of the service also need to show that all due diligence was used to try to prevent a worker from working under the influence.

161. The IIDTW (2004) was concerned that evidence shows that some of the drug testing services were making inflated claims about the impact of alcohol and drugs on the workplace and the effectiveness of their own products in helping to detect and alleviate these problems. The Inquiry recommended that laboratories that are not currently accredited should be given three years to bring themselves up to the UK Accreditation Service (UKAS) accreditation standards or form an equivalent self-regulatory system. The Inquiry also found that as the legal position on drug testing in the United Kingdom is confusing, the government should develop clear and definitive guidance on drug testing at work.

162. The ILO *Management of alcohol- and drug-related issues in the workplace* code of practice mentioned previously is perhaps the only code of practice that has been developed in this area. However, there are a number of other international documents which give guidance on the development of a workplace drug and alcohol policy. These include:

- general industry advice from government departments or national associations, including the UK Health and Safety Executive's *Drug misuse at work; a guide for employer*s and *Don't mix it – a guide for employers on alcohol* and the American Bar Association's *Attorney's Guide to Drugs in the Workplace*
- private company advice such as the UK's *Alcohol, Drugs and the UK workplace: An introduction for managers* and the Australian *Drugs of Abuse: information booklet*, and
- advice for specific industries, including the UK National Treatment Agency for Substance Misuse's *Drug and alcohol in the workplace*, which is specifically designed to give guidance to managers and workers in drug and alcohol treatment services workplaces and the U.S. Department of Labor, Mine Safety and Health Administration's *Coping with Substance Abuse in Mining.*

Conclusions

163. The consumption of alcohol and illicit drugs both during and outside of work hours has the potential to have a significant negative impact on Australian workplaces. The impairment that comes from both acute and chronic symptoms of alcohol and other drug use could lead to occupational health and safety issues for both the worker who consumed these products and other people that they work with. However, the empirical evidence around the risks and prevention of alcohol and illicit drugs use in Australian workplaces is sparse, despite the wealth of opinion and advice on this subject.

164. Workplace drug and alcohol policies may help change the norms and culture around illicit drug and alcohol use. Workplace prevention programs may complement existing public health programs to help address substance use, before people become dependent and need more specialised intensive interventions. A workplace policy should be developed in consultation with all members of the workplace, needs to apply equally to all levels, clearly states what is acceptable behaviour and the consequences of any unacceptable behaviour and needs to be clearly communicated to all members of the workforce.

165. The implementation of workplace drug testing is a sensitive and complex issue. While there is good evidence of the reliability of alcohol breath testing and the association between alcohol levels and subsequent performance impairment, this is not the case for illicit drugs. For these substances, the main concern is that these tests only provide an indication of recent use of the drug. Further, the evidence of the association between the drug levels derived from the samples (blood, urine etc) and subsequent performance impairment is relatively sparse.

166. Alcohol and drug use is a multifaceted issue and evidence has shown that single solutions are generally unable to comprehensively address the harms associated with their use. Drug testing needs to be considered as only one part of effective workplace alcohol and illicit drug policies. As such, a comprehensive workplace policy on drugs and alcohol would be more useful in addressing these problems in the workplace.

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Work-related Alcohol and Drug Use – Summary of legislation.

Appendix A: Table 1: Australian legislation on Work Related Alcohol and Drug Use "At a Glance"

Jurisdiction / Legislation	Description
Commonwealth	
Navigation Act 1912	**Sect 186F: Abuse of alcohol and other drugs** outlines the penalties for licensed pilots under the influence of alcohol and drugs, while on board a ship, to the extent that their capacity to carry out their duties is impaired.
Explosives Areas Regulations 2003	**Reg 16**: **Persons under the influence of alcohol and drugs** states that "A person who is under the influence of alcohol or a drug must not be in or near a part of a Commonwealth explosives area in which explosives are being handled."
Australian Federal Police Act 1979	Testing practices of Australian Federal Police (AFP) employees or special members for alcohol and prohibited drugs outlines the procedures for breath and body sample collection. **Sect 40M**: General testing **Sect 40N** after certain incidents
Australian Federal Police (Discipline) Regulations 1979	**Reg 10**: outlines that an AFP appointee must not by drinking alcohol or taking drugs become unfit for duty. Includes restrictions on drinking alcohol and taking drugs whilst on duty and entering entertainment premises whilst in uniform.
Victoria	
Occupational Health and Safety (Mines) Regulations 2002	**Reg 306 Alcohol and Drugs** outlines the development of a programme that must include strategies about the introduction of control measures on the presence and use of alcohol and drugs at the mine during working hours, and strategies for basic safety measures for people who are under the influence of alcohol and /or drugs at the mine. **Reg 501 Duties of employees at all mines** outlines the list of duties for employees and includes that they must not enter or remain at a mine if they are adversely affected by alcohol and drugs.
Rail Safety Act 2006	**PART 6 Alcohol and other drug controls for rail safety workers** outlines the requirements for

Jurisdiction / Legislation	Description
	testing and penalties of use.
Road Safety Act 1986	**Part 5 Offences involving alcohol or other drugs** outlines the requirements for testing and penalties of use.
Marine Act 1988	**Sect 28 Offences involving alcohol or other drugs** outlines the conditions whereby a person would be guilty of an offence in relation to operating a vessel under the influence of alcohol or other drugs.
New South Wales	
Rail Safety Act 2002	**Sect 42 Railway Employees — Alcohol Or Other Drugs** outlines the preparation and implementation of a drug and alcohol programme for railway employees.
Police Act 1990	**Sect 211A Testing of police officers for alcohol and prohibited drugs** details procedures for both breath and urine or hair analysis testing in either a random or targeted manner.
Rail safety (Drug and alcohol Testing) Regulation 2003	Outlines testing procedures and programmes for rail workers
Passenger transport (drug and alcohol testing) Regulation 2004	Outlines testing procedures and programmes for passenger transport workers
Road Transport (Safety and Traffic Management) Act 1999	**Part 2 Offences involving driving under the influence of alcohol or other drugs** outlines the procedures and penalties for driving under the influence of alcohol and other drugs including the application of alcohol testing (amended in 2006 to include testing for illicit drugs). Vehicles include any vehicle on wheels, heavy motor vehicle over a certain tonnage, motor coach, taxi.
Marine Safety Act 1998	**Sect 23 Operating vessel under influence of alcohol or other drugs** details penalties for anyone operating a vessel under the influence of alcohol or drugs, including the obligations of the master of the vessel around members of their crew operating vessels under the influence of drug or alcohol.
Mines Inspection General Rule 2000	**Division 2 — Fitness For Work:** **Clause 31 Fitness For Work Procedure Required** details the requirement for a procedure to determine fitness for duty including provisions for persons affected by alcohol and drugs. **Clause 32 Alcohol and drugs** outlines the prohibition on taking or consuming alcohol and drugs

Jurisdiction / Legislation	Description
	on mine property, the prohibition on drinking alcohol or taking drugs before duty, and procedures for removal of person affected by alcohol or drugs and testing for alcohol and drugs.
Queensland	
Workplace Health and Safety regulations 1997	**Sect 160 Principal contractor must prepare construction safety plan** outlines the preparation of a construction safety plan and its contents including that a person must not consume alcohol on the site. (No mention of other drugs).
Mining and Quarrying Safety and Health Regulation 2001	**Sect 84 Alcohol and drugs** states that a person must not carry out operations under the influence of alcohol or other drugs; and they must not consume alcohol at the mine other than in a designated area.
Transport Operations (Road Use Management) Act 1995	**Sect 79 Driving under the influence of liquor or drugs or with prescribed concentration of alcohol in blood or breath** states that any person who whilst under the influence of alcohol or other drugs drives, is in charge of or starts a motor vehicle, tram, train or vessel is guilty of an offence and liable for a penalty.
Tasmania	
Workplace Health and Safety Act 1995	**Sect 19 Consumption of alcohol and drugs** states that a person must not by the consumption of alcohol or drugs be in such a state as to endanger themselves or others.
Workplace Health and Safety Regulations 1998	**Reg 26 Drugs and smoking in workplace** states that an employee must not consume drugs or alcohol in the workplace, and allows for removal of a person under the influence and designation of a smoke free area.
Dangerous Goods (General) Regulations 1998	**Reg 71 Restrictions on shot-firing** states that a person is not to make up an explosive charge if that person is smoking or under the influence of alcohol or other drugs.
Police Services Act 2003	**Sect 50 Testing for alcohol and drugs** outlines the procedures for undergoing drug and alcohol testing and in what circumstances this is permitted.
Road Safety (Alcohol and Drugs) Act 1970	Outlines the procedures and penalties for driving under the influence of alcohol and other drugs including the application of alcohol testing.
Rail Safety Act 1997	**Sect 29 Railway employees** states that employees must not carry out safety critical work whilst

Jurisdiction / Legislation	Description
	over the prescribed concentration of alcohol in their blood or whilst under the influence of drugs.
Rail Safety Regulations 1999	**Reg 9 Railway employees – alcohol and drugs** outlines the procedures for testing and the prescribed concentration limit of alcohol for employees that carry out rail safety work.
South Australia	
Occupational Health, Safety and Welfare Act 1986	**Sect 21 Other Duties** outline the employees' responsibilities including that they are not by the consumption of alcohol or other drugs a danger to themselves or others at work.
Occupational Health, Safety and Welfare Regulations 1995	**Reg 1.2.2 Employees** states that employees' are not by the consumption of alcohol or other drugs to be a danger to themselves or others at work, Failure to comply will incur a penalty.
Harbors and Navigation Act 1993	**Division 4 Alcohol and other drugs** outlines the requirements around limits for alcohol and drugs and procedures for testing of alcohol and other drugs.
Rail Safety Act 1996	**Sect 30 Railway employees** states that employees must not carry out safety critical work whilst over the prescribed concentration of alcohol in their blood or whilst under the influence of drugs.
Rail Safety Regulations 1998	**Schedule 1 Railway employees—alcohol and drugs—testing procedures and requirements** outlines requirement for random and other testing for alcohol and drugs.
Road Traffic (Miscellaneous) Regulations 1999	**Part 2 Drink driving and drug driving** outlines the requirements around limits for alcohol and drugs and procedures for testing of alcohol and other drugs.
Passenger Transport Regulations 1994	**Part 4 Conduct of drivers and general passenger issues** outlines that drivers are not allowed to have any concentration of alcohol in their blood or consume drugs or alcohol whilst on duty.
Australian Capital Territory	

Jurisdiction / Legislation	Description
Road Transport (Alcohol and Drugs) Act 1977	Outlines testing procedures and programmes for road transport workers.
Northern Territory	
Northern Territory Rail Safety Regulations	**Part 7 Testing for alcohol and drugs** outline the circumstances and procedures where a railway employee can be asked to undertake a drug or alcohol test.
Traffic Act 2005	**Part V Driving under the influence of intoxicating liquor or drugs etc.** outlines the requirements around limits for alcohol and drugs and procedures for testing of alcohol and other drugs.
Work Health Act 1986	**Sect 60 Exclusion of entitlement in respect of certain travel accidents** states that a worker is not entitled to compensation in respect of an injury sustained whilst driving a motor vehicle after having consumed alcohol or while under the influence of a drug.
Western Australia	
Explosives And Dangerous Goods (Dangerous Goods Handling and Storage) Regulations 1992	**Reg 4.24 Persons under the influence of alcohol or drugs** outlines that a person who is under the influence of drugs or alcohol are not to enter or remain in any package or bulk depot.
Fire Brigades Regulation 1943	**Reg 133 Conduct requirements** states that members should not take intoxicating liquor into the station.
Mines Safety and Inspection Regulation 1995	**Reg 4.7 Intoxicating liquor and drugs** states that a person whether or not they are an employee must not be in or on any mine whilst adversely affected by alcohol or drugs, and managers can direct a person to leave if they are of the opinion that a person is adversely affected. Also states that an employee must comply with the request, and they also must not have any alcohol or drugs in their possession or consume these substances whilst in the mine.
Rail Safety Act 1998	**Part 3 Safety standards and measures** states that railway employees that perform railway safety work whilst under the influence of alcohol or drugs are committing an offence and subject to a penalty.

Jurisdiction / Legislation	Description
Road Traffic Act 1974	**Sect 63 Driving under the influence of alcohol etc** outlines that it is an offence to operate a vehicle under the influence of alcohol or other drugs to the extent that they are incapable of having proper control of the vehicle (vehicle includes agricultural implements and taxis and vehicles capable of carrying 12 or more passengers).

Work-related Alcohol and Drug Use – Summary of standards, codes of practice and guidance material.

Appendix B: Table 1: Australian Jurisdictional Material on Work Related Alcohol and Drug Use "At a Glance"

Jurisdiction	National Standards	Code of Practice	Guidance Material	Other *
Dept of Defence - Commonwealth				✓
National Transport Commission - Commonwealth	✓ (Health Assessment of Rail Safety workers)			
SafeWork SA			✓	
WorkCover Tasmania			✓	
ACT WorkCover			✓	
NT WorkSafe				✓
WorkCover NSW			✓	
WorkSafe Victoria			✓	
WorkSafe WA			✓	
Workplace Health and Safety, Department of Industrial Relations QLD		✓ (Cash in Transit Industry 2001)		

Other * includes fact sheets, website material, referral to industrial commission, intervention and awareness raising campaigns, and collaborative work with jurisdictions to develop material.

Table 2: Australian Social Partners "At a Glance"

Building Trades Group of Unions - ACTU	"Not at Work Mate" Drug and Alcohol Program
ACTU	Alcohol and Other Drugs in the Workplace Policy and training package

Table 3 – Comparison of alcohol and drug use material

Jurisdiction	Material	Effective Date	Scope	Content
Australian Government Department of Defence - Commonwealth	ADF- Alcohol, Tobacco & Other Drugs Service.(ATODS).	Undated	Alcohol, Tobacco and other drugs	ATODS is part of the Australian Defence Force Mental Health Strategy. The aims and objectives of the Service are to minimise the effect of problematic use of alcohol and other drugs in the ADF through workplace education and clinical interventions. Materials used on the site include the National Drug Strategy and National Alcohol Strategy publications. They also have a workbook titled "Keep Your Mate Safe" – a participant workbook which includes information on alcohol effects, standard drinks and strategies for cutting down alcohol intake.
National Transport Commission - Commonwealth	National Standard for Health Assessment of Rail Safety Workers.	July 2004	Alcohol and illicit drugs and prescription and over the counter medication.	Alcohol and drug screening are part of the health assessment. There is detailed information for medical personnel on the medical criteria for alcohol, illicit drugs, prescription and over the counter medication. There have also been a number of newsletters and bulletins detailing the assessments and the role of alcohol and drugs in fitness for duty.
SafeWork SA	Guidelines for addressing alcohol & other Drugs in the Workplace	Released Dec 2006	Alcohol and illicit drugs, and also has information on legitimate use of prescribed and over the counter medications	Outlines the applicable legislation and duty of care obligations, and recommends identification, assessment and control. Control strategies include development of a policy, (document gives advice on content of policy) and education. Document also has information on identification of person impaired by alcohol and other drugs and information on alcohol and other drugs.
NT WorkSafe	Work environment – developing an alcohol policy and	15 January 2004	Alcohol	Outlines the legislation, problems associated with alcohol at work and developing a policy and what should be in the policy.

Jurisdiction	Material	Effective Date	Scope	Content
	getting help.			
Workplace Standards Tasmania	Two guides: Stress, Bullying, Alcohol & other Drug Misuse: Hidden Hazards, A Guide for Workers and A Guide for Employers	October 2003	Workplace stress, bullying and alcohol and other drug misuse includes information on legitimate use of prescription and over the counter medication and tobacco	Both guides follow the 'SAFE' risk management model – Spot the hazard, Assess the risk, Fix the problem, Evaluate the results. Document includes information on signs to look for, effects on the workplace, policy advice and legal responsibilities.
WorkCover NSW	Alcohol and other drugs in the workplace.	2006	Alcohol and other drugs, mentions legitimate use of prescription and over the counter medication	Contains information on stressors at work that can contribute to alcohol and drug use. Details the process for development of a company drug and alcohol policy including use of EAPs, counselling and testing. Also includes a template for a policy.
Independent Transport Safety and Reliability Regulator - NSW	Guidelines relating to Drug & alcohol Programs.	January 2004	Drugs and alcohol	Contains information on elements of a program including testing, disciplinary action, fair procedures education and assistance, and railway employees' responsibilities.
WorkSafe Victoria	Alcohol in the workplace – guidelines for developing a workplace alcohol policy	May 2005	Alcohol	Includes information on the duty of care, stressors, development of a policy, EAPs, effects on performance and tips for setting out a policy
Workplace Health and Safety, DIR Qld	Cash in Transit Industry Code of Practice 2001		Drugs, alcohol and prescribed medication	Outlines the legislative requirements and obligations of cash in transit workers, and information on the effects of alcohol and/or drugs.
WorkSafe WA	Alcohol and other drugs at the workplace.	Not dated	Alcohol and other drugs, mentions legitimate use of prescription and over the counter medication	Includes information on the key steps in the development of a policy, the contents of the policy, changes to work culture, identification of someone impaired by drugs and/or alcohol and how to deal with them and safeguards for people who are taking prescription or over the counter medications. There are sections on the duty of

Jurisdiction	Material	Effective Date	Scope	Content
				employers and employees, risk factors and information on alcohol and other drugs.
ACTU	Alcohol and Other Drugs in the Workplace Policy	5 December 2006	Alcohol and other drugs includes prescription and over the counter medication	Aims to provide a framework for employers and employees that they can use when dealing with alcohol and drug use issues. The policy outlines the reasons for an alcohol and drug policy, some factors that can affect safety and performance and employer and employee responsibilities. The ACTU advocates the training of appropriate persons who can undertake a preliminary impairment assessment on anyone believed to be impaired and the policy includes a template for a preliminary impairment assessment form. A preliminary impairment training program has also been developed. This package includes four lessons; the first is an overview of the ACTU policy, the second is on impairment in the workplace, the third titled impairment versus testing and the fourth on conducting preliminary impairment assessments
Building Trades Group of Unions - ACTU	"Not at work mate" – the Building Trades Group of Unions Drug and Alcohol Safety and Rehabilitation Program	1991 implemented nationally	Alcohol and drugs	Aim is to improve safety on building sites by teaching workers to take responsibility for their own and fellow workers' safety especially in regard to alcohol and drug use. Resources include employers guide, policy documents, videos and guidelines for safety committees. It was developed by workers for workers, based on peer education strategies and employs a harm reduction approach.