

NATIONAL REVIEW INTO MODEL OHS LAWS

A submission from the Alcohol and other Drugs Council of Australia's (ADCA) Workplace/Industrial and Occupational Health & Safety Reference Group

This submission addresses two questions raised by the review.

Q13. Are there current or emerging hazards and risks that are not effectively addressed under general duties of care? If so, how should they be provided for under a model OHS act?

Q15 Are there any other issues relating to the scope, application and definitions of a model OHS Act?

One emerging issue that we believe is not effectively addressed under general duties of care concerns alcohol and other drug-related risk to workplace safety. While research concerning the degree to which alcohol and other drug use impacts occupational health and safety is scarce, the economic costs borne by business as a result of alcohol and other drug-related accidents, illness and lost productivity is estimated to exceed \$4 billion per year (Collins & Lapsely, 2008). The annual cost of alcohol-related absenteeism alone is estimated to be somewhere between \$437 million and \$1.2 billion (Pidd, Berry, Roche & Harrison, 2006).

Increasingly, more attention is being focused on alcohol and other drug-related risk occupational health and safety. Examples of industries that have introduced national alcohol and other drug programs to address concerns over employee health, safety and welfare included the Australian Defence Force, the Civil Aviation Safety Authority and the Building and Construction Industry.

Many employers and employees are unsure of their rights and responsibilities in relation to alcohol and other drug-related risk to workplace safety. One reason for this is that only two jurisdictions (South Australia and Tasmania) mention alcohol and other drug use in their relevant OHS Acts. Both Acts specifically require employees to ensure that they are not, by the consumption of alcohol or a drug, in such a state as to endanger their own safety or the safety of others. In other jurisdictions mention of alcohol or other drugs is either made in accompanying Regulations or not mentioned at all. In these cases it is implicitly assumed that alcohol and other drug-related risk to safety is adequately covered under general duties of care.

For consistency and clarity similar wording as applies in the South Australian and Tasmanian Acts, concerning alcohol and other drug-related workplace safety risk, should be included in the national model Act.

In contrast to general State and Territory OHS Acts, OHS Acts/and or Regulations relevant to the mining industry not only mention alcohol and other drug related risk, but

in most cases also describe prescriptive standards required of both employers and employees to minimize alcohol and other drug-related risk to safety.

Should a process-based or prescriptive standard be adopted in the National Model Act, similar processes and measures, concerning the management of alcohol and other drug-related safety risk, as those outlined in various mining industry Acts and Regulations could be adopted. However, aside from breath testing for the presence of alcohol, drug testing should not be a mandatory requirement of the Act for the following reasons:

- currently available drug testing devices cannot determine levels of intoxication or impairment (a positive test only indicates exposure to drugs at some time in the past)
- the reliability and accuracy of workplace drug tests varies considerably between test devices and test methods (none are 100% accurate)
- currently, there is no Australian standard concerning on-site test devices
- while there is an Australian standard for two testing methods (saliva and urinalysis), these standards are voluntary
- currently there is no accreditation, regulatory or licensing process for the providers of testing services and equipment
- currently there is no Australian legislation concerning drug testing in the workplace
- drug testing can mask the true extent of drug-related risk to safety (employees may be reluctant to report near misses or minor accidents if a drug test is required when reporting these incidents).

General Comments

Regardless of which legislative approach is undertaken, or how much detail is in the model act in comparison with subordinate regulations and codes of practice, OHS acts, regulations, and codes of practice should be consistent across jurisdictions.

The Alcohol and other Drugs Council of Australia (ADCA) and the Workplace/Industrial and Occupational Health & Safety Reference Group

The Alcohol and other Drugs Council of Australia (ADCA) is the peak, national, non-government organisation representing the interests of the Australian alcohol and other drugs sector, providing a national voice for people working to reduce the harm caused by alcohol and other drugs. ADCA works collaboratively with the government, non-government, business and community sectors to promote evidence-based, socially just, approaches aimed at preventing or reducing the health, economic and social harm caused by alcohol and other drugs to individuals, families, communities and the nation.

ADCA is a not-for-profit organisation that receives funding for its work through the

Commonwealth Government's Community Sector Support Scheme and the National Drug Strategy Program. Further detail on ADCA is available at www.adca.org.au .

One of ADCA's roles is to provide policy positions and public submissions that promote harm minimisation and reduce the impact of alcohol and other drugs in our community. The development of these policy positions and submissions are assisted by input from ADCA working/reference groups that are made up of subject matter experts.

The group responsible for this submission to the national review into model OHS laws is the Workplace/Industrial and Occupational Health & Safety Reference Group, which consists of the following members:

- Dr Ken Pidd, National Centre for Education and Training on Addiction, Flinders University, SA (Chair)
- Associate Professor Jeremy Davey, Centre for Accident Research and Road Safety, Queensland University of Technology
- Ms Kerry Fitzgerald, Australian Safety and Compensation Council, Canberra
- Ms Cecile McKeown, Tasmanian Institute of Law Enforcement Studies, University of Tasmania
- Mr Trevor Sharp, Building Trades Group of Unions Drug and Alcohol Program NSW
- Mr Darrell Hinga, Eastern Alcohol and Drug Services, Victoria
- Ms Louise Page, Northern Territory Employee Assistance Program

The ADCA policy position on workplace alcohol and other drug issues and interventions is available at <http://www.adca.org.au/content/view/24/66/> .

For further information or clarification concerning this submission, do not hesitate to contact the Workplace/Industrial and Occupational Health & Safety Reference Group Chair Dr Ken Pidd (08 82017692) or the CEO of ADCA Mr David Templeman (02 62810995).

Thank you for the opportunity to provide input to the review.

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Deputy Director National Centre for Education and Training on Addiction.

Mr David Templeman
CEO ADCA

09/07/2008

References

Collins, D.J., & Lapsley, H.M. (2008). *The costs of tobacco, alcohol and illicit drug abuse to Australian society in 2004/05*. National Drug Strategy Monograph Series No. 64, Australian Government Department of Health and Ageing, Canberra.

Pidd, K.J, Berry, J.G., Roche, A.M., & Harrison, J.E. (2006). Estimating the cost of alcohol-related absenteeism in the Australian workforce. The importance of consumption patterns. *Medical Journal of Australia*, 185, 637-641.