

Important notice to public passenger service operators, drivers and the NSW community.

On 1 September 2017 the Passenger Transport (General) Regulation 2017 will replace the Passenger Transport Regulation 2007, which will be automatically repealed.

This new Regulation reproduces all of the provisions currently in place, so there will be no changes for operators, drivers or the community.

GUIDELINES RELATING TO DRUG & ALCOHOL PROGRAMS FOR BUS OPERATORS

PURSUANT TO SECTION 9C(1)(a) OF THE PASSENGER TRANSPORT ACT 1990

1.0 INTRODUCTION

Individual employees are under an obligation to take reasonable care for the health, safety and welfare of others and to cooperate with employers in their efforts to comply with the requirements of the *Passenger Transport Act 1990* and the relevant work health and safety requirements.

Operators are responsible for ensuring that risks to health and safety in the workplace are identified and assessed, then eliminated or controlled. These risks include those posed by the use of alcohol or drugs.

The Guidelines promote a consistent approach across the bus sector to managing the risks posed by drug and alcohol use.

The Guidelines set out the principles governing operator policies and the approaches needed to manage this potential problem. The Guidelines state the context in which drug and alcohol testing is to take place but do not prescribe the basis of that testing or how it is to be administered.

The systems that operators need to implement drug and alcohol programs depend on the size of their bus operations and the risks involved.

2.0 SCOPE

2.1 The Guidelines shall have force subject to section 9C of the *Passenger Transport Act 1990*.

3.0 APPLICATION

3.1 The Guidelines shall apply to all accredited bus operators providing public passenger services under the Act and whose transport safety employees are engaged in transport safety work.

3.2 The terms used in the Guidelines have the same meaning as they have in the Act and any regulation made there under.

4.0 ELEMENTS OF A DRUG AND ALCOHOL PROGRAM

4.1 Operators, members of the public and transport safety employees need to have confidence that the safety hazards posed by drugs and alcohol are being monitored and controlled in an ongoing and rigorous fashion.

4.2 The systems used to implement an operator's drug and alcohol program must embody risk management principles and may take account of the principles contained in:

- AS/NZS4804: 2001, Occupational health and safety management systems – General guidelines on principles, systems and supporting techniques, as amended from time to time;
- AS/NZS4801: 2001, Occupational health and safety management systems – Specification with guidance for use, as amended from time to time;
- AS/NZS4360: 1999, the Australian Risk Management Standard, as amended from time to time;
- Another equivalent Standard, as amended from time to time.

4.3 Programs developed by operators to manage drugs and alcohol are to be based on the following principles:

- (a) Drug and alcohol problems are to be dealt with as health problems, with an emphasis on education and rehabilitation in so far as it is consistent with the requirements of safety
- (b) Transport safety employees and their representatives are to be consulted at all stages of program development and implementation
- (c) Operators must inform all transport safety employees of their responsibilities in relation to the consumption or use of drugs or alcohol which may adversely affect work performance or conduct
- (d) Operators must provide practical guidelines and training to managers and supervisors for dealing with transport safety employees whose work performance or conduct is adversely affected by drugs or alcohol, including the application of disciplinary sanctions
- (e) Transport safety employees and their representatives must comply with all employer directives applicable to drugs and alcohol in the workplace and cooperate fully with employers to prevent incidents arising from the consumption or use of drugs or alcohol
- (f) Transport safety employees who attend treatment or rehabilitation may have access to recreation leave, sick leave, long service leave or leave without pay
- (g) Personal information received from transport safety employees during counselling, treatment or rehabilitation is to be treated in strict confidence
- (h) Policies and programs developed by operators should be tailored to address their operational circumstances. The level of detail in a policy and program will reflect the size of the employer's operations, the *extent of the risk and any applicable statutory requirements.*

5.0 OPERATOR PROGRAMS

5.1 Operators must take the following matters into account when preparing and implementing a drug and alcohol program:

- (a) Taking measures to achieve a workplace culture that supports fitness for work
- (b) Reducing the effects in the workplace of the consumption or use of drugs and alcohol including risks to safety and absenteeism
- (c) Informing transport safety employees of the potential work related problems that may arise from the consumption or use of drugs and alcohol and of their responsibilities in relation to safety, conduct and performance
- (d) Establishing a system to maintain the confidentiality of all information communicated to them concerning drug and alcohol related problems
- (e) Providing information to transport safety employees about referral to counselling, treatment and rehabilitation services where this is appropriate.

6.0 RESPONSIBILITIES TO BE REQUIRED OF TRANSPORT SAFETY EMPLOYEES BY OPERATORS

6.1 The training and assessment component of an operator's program shall involve the operator making transport safety employees aware of their responsibility for:

- (a) Ensuring that they do not, by the consumption of drugs or alcohol, endanger their own safety or the safety of any other person in the workplace or a member of the public
- (b) Attending and resuming work when not under the influence of drugs or alcohol
- (c) Notifying their manager or supervisor if they are aware that their work performance or conduct could be adversely affected or if there is a risk to the safety of themselves or other persons as a result of a prescribed or non-prescribed drug
- (d) Consulting with their manager, supervisor, union or occupational health and safety representative if they are concerned about other transport safety employees because of a perceived safety risk
- (e) Following the operator's directives and rules applicable to drugs and alcohol in the workplace and also in respect of rehabilitation programs endorsed by the operator.

7.0 ELEMENTS OF A DRUG AND ALCOHOL PROGRAM

As a minimum, the program shall consist of the following elements:

A drug and alcohol policy

- 7.1 A policy that outlines the operator's aims in relation to drug and alcohol use with the objectives linked to the reduction of hazards and risks associated with alcohol and other drug use. The policy may also detail the "supporting measures" including strategies and action plans to meet the objectives.

Supporting measures

- 7.2 The supporting measures for a drug and alcohol program shall include information and procedures on the:
- (a) Measures to reduce drug and alcohol related problems in the workplace through proper personnel management, good employment practices, improved working conditions and the proper arrangement of work
 - (b) Measures to prohibit or restrict the availability of drugs and alcohol in the workplace
 - (c) Prevention of drug and alcohol related problems in the workplace through information, education, training and other means (see also Guideline 6.1)
 - (d) Identification, assessment and referral of those who have drug or alcohol related problems
 - (e) Measures relating to intervention and the treatment and rehabilitation of individuals with drug or alcohol related problems
 - (f) Rules governing conduct in the workplace relating to drugs and alcohol, the violation of which could result in the invoking of disciplinary and or criminal proceedings.

Drug and alcohol testing

- 7.3 An operator shall satisfy himself that he has adequate arrangements in place for the testing of the transport safety employees under his control.
- 7.4 The pro-active management of risk may involve the targeted or random testing of transport safety employees. Whenever targeted or random testing is implemented, the operator's program shall require that:
- (a) Targeted testing be conducted in a manner that maximises its effectiveness as a control for the risks posed by the consumption of drugs or alcohol
 - (b) Random testing be conducted in a manner that maximises its effectiveness as a control for the risks posed by the consumption of drugs or alcohol. Measures to achieve this end may include

- (i) The conduct of random tests on a pre and post sign-on basis for all persons engaged in transport safety work without giving prior notification of such testing
 - (ii) The conduct of random tests according to the provisions of the Passenger Transport (Drug and Alcohol Testing) Regulation 2010 or the provisions of a registered industrial agreement
 - (iii) Administering of random urine tests according to AS/NZS4308:2008: Procedures for specimen collection and the detection and quantisation of drugs of abuse in urine. The method may be used for workplace detection of any or all of the following classes of drugs: opiates, sympathomimetic amines, cannabis metabolites, cocaine metabolites or benzodiazepines
- (c) Periodic assessments by operators of the effectiveness of their drug and alcohol testing according to accepted risk management principles.

Disciplinary action, fair procedures, education and assistance

7.5 A drug and alcohol program must clearly set out the:

- (a) Sanctions applicable in the event of breaches of its requirements. This would include sanctions consequent upon a first breach or where a transport safety employee refuses or fails to fully comply with the terms of a rehabilitation program agreed with the operator
- (b) Rules governing the application of the sanctions, including grievance resolution and appeal mechanisms
- (c) Protocols for fair procedures agreed with transport safety employees and their representatives
- (d) Education and assistance available to a transport safety employee who self identifies as someone whose consumption of drugs or alcohol could impair their ability to safely undertake transport safety work
- (e) Protocols for fair procedures, education and assistance available to a transport safety employee who tests positive for the presence of a drug where:
 - (i) The drug has been prescribed by a medical practitioner for the person or purchased by the person in respect of an identified medical condition
 - (ii) The person has taken the medication according to the instructions of the medical practitioner or the instructions given on the label of the medication
 - (iii) The person taking the medication gave full and timely warning to his or her supervisor of this
 - (iv) The person was rostered for duty when testing took place.

8.0 SOURCES OF INFORMATION ON DRUG AND ALCOHOL MANAGEMENT

8.1 There are a number of sources from which information on managing drug and alcohol related problems and risks can be obtained. These include:

United Nations

- The International Labour Organisation offers extensive resources designed to assist governments, employers and employees in the management of workplace-related risks. Reference should be made to the 1995 Code of Practice entitled, “*Management of Alcohol and Drug Related Issues in the Workplace*”:

Further information is available at www.ilo.org website or http://www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@safework/documents/normativeinstrument/wcms_107799.pdf

National Governments

The following publish a wide range of investigation, policy and research papers on human factor related risks like drugs and alcohol:

- Australian Transport Safety Bureau: www.atsb.gov.au
- National Transport Commission (formerly the National Road Transport Commission): www.ntc.gov.au
- National Transportation Safety Board of the United States: www.nts.gov
- National Aeronautics and Space Administration of the United States: www.nasa.gov
- Transport Canada: www.tc.gc.ca

State Governments

- New South Wales Independent Transport Safety Regulator: www.transportregulator.nsw.gov.au

Peak union organisations

- The New South Wales Labor Council publishes detailed fact sheets and policies to assist employers and employees in the workplace. These have been developed with the assistance of various NSW Government agencies.

The Labor Council *Policy on Managing Alcohol, Other Drugs and Fatigue in the Workplace for Employees covered by the Rail Safety and Passenger Transport Acts* has been endorsed by the Independent Transport Safety and Reliability Regulator as a compliant policy for the purposes of these Guidelines.

For fact sheets:

www.unionsafe.labor.net.au/safety_reps/

For policies:

www.unionsafe.labor.net.au/officials/index

Peak industry associations

- New South Wales Minerals Council: www.nswmin.com.au
- Charter Vessels Association: www.chartervessels.com.au Telephone (02) 9968 1184

Research bodies

- Centre for Sleep Research, University of South Australia: www.unisa.edu.au/sleep/
- Injury Risk Management Research Centre, University of New South Wales: www.irmrc.unsw.edu.au
- Minerals Industry Safety & Health Centre, University of Queensland: www.mishc.uq.edu.au
- Sleep Health & Respiratory Support Clinic, Royal Prince Alfred Hospital: http://www.slhd.nsw.gov.au/rpa/sdc_old/default.htm
- Karolinska Institute in Sweden: www.info.ki.se
- Institute National de Recherche et de Securite (INRS) in France: www.inrs.fr
- Division of Sleep Medicine, University of Pennsylvania: <http://www.med.upenn.edu/sleepctr/>
- American Academy of Sleep Medicine: www.aasmnet.org/
- Human Psychopharmacology Research Unit, University of Surrey, UK: www.surrey.ac.uk

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