



# Fitness for Work – Alcohol and Other Drugs Procedure

CM9 Ref  
Internal Use Only

| Date       | Revision Description | By | Approved |
|------------|----------------------|----|----------|
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## 1.0 Purpose

NSW Soil Conservation Service (SCS) is committed to providing a workplace that is free of the hazards associated with alcohol and other drug use.

SCS recognises that an individual worker's fitness for work may be compromised by using alcohol and other drugs and could pose a risk to themselves, to other workers, visitors, or contractors or to property. SCS conducts most of its work on construction sites and much of this involves heavy machinery. Therefore, SCS has a lower tolerance for the hazards of alcohol and other drugs at work compared to some other organisations.

The purpose of this procedure is to:

- Set out the requirements of the Fitness for Work - Alcohol and Other Drugs Procedure (this document) so that everybody is aware of what is expected of them and how they can expect to be treated.
- Provide a safer working environment by minimising hazards associated with inappropriate use of alcohol and other drugs through random testing.
- Provide assistance through a range of preventative, educational and rehabilitative measures to overcome alcohol and other drug problems that could affect a person's performance or fitness for work.
- Provide a working environment which is conducive to productivity and achievement of business objectives by minimising the potentially harmful impact of alcohol and other drug consumption.
- Ensure that people who are deemed unfit for work as a result of alcohol or other drug misuse are dealt with in a fair and constructive manner; and
- Ensure that the SCS meets its obligations to workers, contractors, and the general public to carry out its operations safely in accordance with relevant legislation.

## 2.0 Scope

This procedure applies to all SCS workers, visitors, and contractors on all SCS managed sites and offices.

## 3.0 Legal Requirements

Both SCS and individual workers and contractors have obligations under the "Duty of Care" responsibilities in Workplace Health and Safety legislation and at common law. Individuals in the workplace are required to take reasonable steps to ensure their own health and safety at work and avoid adversely affecting the health and safety of any other person.

In the context of alcohol and other drugs, all workers are required to present for work in a fit state for work, and to advise their supervisor prior to the commencement of shift of any reason why they are not able to present in a fit state. Workers also have a duty of care towards their fellow workmates to report any possible fitness for work concerns to supervision.

Driving or attempting to drive a motor vehicle while under the influence of alcohol, drugs, or alcohol and drugs over prescribed limits is illegal in all Australian jurisdictions.

SCS may also be subject to alcohol and drug testing requirements of its customers and is required to agree to specific conditions for such testing (e.g. when working on mine sites).

#### 4.0 Confidentiality

SCS will ensure all personal information gathered, stored and transmitted in relation to fitness for work (alcohol and other drugs) complies with applicable medical and human resource confidentiality requirements including the requirements of the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*.

The information will only be provided to those people who have a legitimate need to know to ensure safety, health or performance. No information that may identify an individual will be released to any third party except with the individual's consent or to obtain professional or legal advice or if required by law.

#### 5.0 Supporting Workers

**Self Help:** If workers think they have an alcohol related or drug dependency problem, it is recommended that assistance be sought from your Safety Representative, Supervisor or Manager. Counselling provided by the Employee Assistance Program (EAP) if required, can be arranged on a strictly confidential basis.

SCS will also use the EAP to assist with rehabilitation of workers following a breach of this Fitness for Work Procedure.

See the below avenues for education and support:

|   |   |
|---|---|
| <b>Alcohol and Drug Information Services</b>  | 1800 250 015  |
| <b>Alcoholics Anonymous - National Office</b> | (02) 9387 7788  |
| <b>Employee assistance Program - Benestar</b> | 1300 360 364  |
| <b>Family Drug Support</b>                    | 1300 368 186  |
| <b>Lifeline</b>                               | 13 11 14  |
| <b>Narcotics Anonymous - National Office</b>  | Website: <a href="http://www.naoz.org.au">www.naoz.org.au</a> |

#### 6.0 IMSAFER

Workers are encouraged to self-assess their own personal health against the IMSAFER Personal Safety Self-Assessment Checklist prior to starting work. This checklist includes an opportunity to consider the effects of medication and alcohol / drugs before engaging in work. If a worker answers 'no' to any of the questions or is unsure, they should contact their supervisor to discuss next steps.

Once the worker has entered the worksite they are deemed to have started work and will be expected to participate in alcohol and other drug testing if requested.

#### 7.0 Compulsory Alcohol and Other Drug Testing

Workers are required to undertake an alcohol & other drugs test when requested. The following types of testing will be used:

**Voluntary Self Testing:** Where possible, equipment for voluntary self-testing for alcohol, will be made available to workers on request prior to commencing work. In the event the worker has a reading greater than the allowable limit, they are permitted to leave site immediately before starting work. Self-initiated testing for other drugs will be at the employees' own cost and conducted off site at an approved testing provider.

**Random Testing:** SCS will conduct random testing for alcohol and/or other drugs at any time. This may include random selection for testing by date, shift or any group of individuals on site.

Frequent and periodic testing (at least once per month) of the workforce (both SCS workers and subcontractor workers) will be as follows:

1. where there are less than 30 workers on site – at least 10% of the workforce
2. where there are 30 to 100 workers on site – a minimum of 5 workers per month, and
3. where there are greater than 100 workers on site – a minimum of 10 workers per month

Workers will be randomly selecting for drug and alcohol testing using a random electronic selector or random selection of marbles or balls of a particular colour.

**Causal Testing:** After an incident, SCS may require a worker to undergo an alcohol or other drug test. This test should be completed as soon as possible after the incident has occurred. An injured person who requires immediate medical attention may only be tested when it is safe to do so. This will be determined in consultation with suitably trained health or medical personnel. Samples will be required to be sent to a suitable third-party testing organisation accredited by the National Association of Testing Authority (NATA), regardless of the result of the screening sample.

**Testing if suspected of not being fit for work:** The Manager may require a worker to undergo an alcohol and/or other drug test if in their considered opinion an individual's fitness for work may be compromised and is considered to be a possible risk in the workplace. This may also include testing if any evidence is found of possible alcohol or other drug use at work (e.g. drug paraphernalia, alcohol containers on worksites or in vehicles) and SCS can identify with reasonable certainty those who may have been involved.

Where a supervisor or other person has reason to suspect that a worker may be under the influence of alcohol or other drugs, the supervisor shall complete a Reasonable Grounds for Drug and Alcohol checklist. The alcohol and/or other drug test shall be approved by the Supervisor / Project Manager, or other designated person with the authority to authorise reasonable grounds testing.

**Targeted Testing:** If a worker has produced a confirmed positive test, it is mandatory that the worker be included in the test group for the following 3 random tests that are conducted.

## 8.0 Testing Procedures

### 8.1 Authorising and Training Testing Officers

During normal workplace operations and at the commencement of any project, SCS will have persons authorised for the purpose of conducting alcohol and other drugs testing.

The people authorised will undertake all relevant training for the role they will perform, which may include:

- Training in the type of breathalyser to be used
- Training in oral fluid (saliva) testing equipment
- Training in this procedure

### 8.2 Alcohol Testing

Those selected to undergo testing for alcohol will take a breathalyser test following the instructions given by the authorised testing officer operating the breathalyser unit. SCS will ensure that breath testing for alcohol is undertaken using an instrument that meets the relevant Australian Standard inclusive of calibration requirements. Testing will be carried out only by authorised officers who are appropriately trained and authorised.

A worker who, after breath testing, has been found to have a reading greater than the allowable limit shall have a second test taken 20 minutes after the first test. No food or drink is permitted to be consumed during this time, unless required for medical reasons. A worker who, after the second test, has been found to have a reading greater than the allowable limit shall not be permitted to enter site or work and this will be regarded as a confirmed positive test.

The authorised testing officer will advise the worker of the result, and their immediate Supervisor, relevant Manager and HR Business Partner of the result. If the worker is not capable of driving safely, transport will be arranged for the person.

### 8.3 Drug Testing

Those selected to undergo oral fluid screening will be requested to follow the instructions given by the authorised testing officer. Screening will be carried out only by authorised officers who are appropriately trained and authorised.

A worker who, after oral fluid screening, has been found to have a reading greater than the allowable limit shall be stood down pending confirmation of the results. The worker shall not be permitted to enter site or work and the sample shall be taken to an approved collection centre accredited by the National Association of Testing Authority (NATA) for confirmatory testing.

The authorised testing officer will advise the worker of the result, and their immediate Supervisor, relevant Manager and HR Business Partner of the result. If the worker is not capable of driving safely, transport will be arranged for the person.

If the confirmatory test has been found to have a reading lower than the allowable limit the worker shall be permitted to return to work and any costs and/or leave taken will be reimbursed and/or reinstated.

Where trained authorised officers or screening equipment are not available the worker can be directed to attend a suitable third-party testing organisation, accredited by the National Association of Testing Authority (NATA). If the worker is not capable of driving safely, transport will be arranged for the person.

### 8.4 Submission of a Testing Sample

#### 8.4.1 Refusal to submit a test

Refusal by a worker without legitimate cause to submit to or co-operate fully with the administration of an alcohol or other drug test or to assist SCS in clarifying whether any drugs may render the worker unfit for work, will be treated as a breach – see paragraph 9.0 Breaches..

#### 8.4.2 Inability to submit a sample

Workers are required to take all reasonable steps to enable the provision of a sample if requested. The donor will remain under the supervision of the authorised testing officer (or their delegate) until a sample has been provided. In the event a sample cannot be provided on medical grounds the SCS General Manager can provide an exemption if suitable evidence has been provided by a medical professional to waive the sample.

#### 8.4.3 Falsification

Any attempt to avoid or falsify any alcohol and /or other drug test may constitute serious misconduct and involve disciplinary procedures up to and including the termination of the individual's employment – see paragraph 9.0 Breaches.

#### 8.4.4 Positive Result Consistent with Medication

In the event a worker is prescribed medication for a non-work-related illness, that may have an impact on their ability to perform their role safely, they must advise their line manager as soon as practicable and complete the Self Declaration of Medication Use form. In consultation with the Injury Management Advisor, suitable duties may be identified for workers on a case by case basis.

Where a test is deemed to be a positive result by an authorised testing officer and prescription or over the counter medication has been declared prior to taking the test, confirmation from an appropriate person will be required to confirm whether the result is consistent with the stated medication/s.

Where the it is deemed that the result is consistent with medication/s declared prior to the test and the consumption poses no risk of injury or illness to the person being tested, or others, the worker may return to work.

Where it is deemed that the result is inconsistent with medications declared prior to the test, or no medications were declared prior to the test, the authorised testing officer will advise the worker’s immediate Manager and HR Business Partner. This will be regarded as a breach outlined in paragraph 9.0.

### 8.5 Drug Levels

The alcohol cut off level is:

|         |              |
|---------|--------------|
| Alcohol | 0.00mg/100ml |
|---------|--------------|

AS/NZS 4760:2019 Procedure for specimen collection and the detection and quantification of drugs in oral fluid

The drug levels are:

|              |          |              |          |
|--------------|----------|--------------|----------|
| Amphetamines | 50 ng/mL | Cannabinoids | 15 ng/mL |
| Cocaine      | 50 ng/mL | Opiates      | 50 ng/mL |
| Oxycodone    | 40 ng/mL |              |          |

### 8.6 Collection and Transport

Collection of samples including handling and transportation to testing facilities shall be conducted in accordance with chain-of-custody principles.

## 9.0 Functions and Events

On occasion an SCS employee may be invited to an internal or external work function during or outside of normal working hours, at which alcohol is served. On these occasions, SCS employees may participate in the function inclusive of alcohol consumption, however their behaviour during the event is to remain consistent with the Regional NSW Code of Ethics and Conduct. Alcohol served at internal events must require food to be provided.

If the event is during normal business hours, SCS employees will not be permitted to return to their normal duties that shift, or until their BAC has returned to 0.00mg/100ml. SCS employees may be required to consider alternate travel arrangements post event and are not permitted to drive company vehicles under the influence of alcohol.

Events organised by SCS that serve alcohol must be approved by the Executive Director.

## 10.0 Breaches

### 10.1 SCS Employees

**First Positive:** If a worker records a confirmed positive test result for the first time for alcohol or other drugs then the following will apply:

- The worker will enter into discussions with their Manager & HR Business Partner regarding the positive result. The worker may have a representative if requested.
- The worker will be sent home on either annual leave or unpaid leave at the worker’s choice and given a verbal warning assuming there are no mitigating circumstances.

In the event of the positive result being for alcohol and drugs other than cannabis, the worker will present themselves for their next normal shift and undergo a further test. If the test is positive, it will be treated as a second positive.

In the event of the positive result being for cannabis, the worker shall be given a reasonable number of personal testing kits for the worker to monitor their own levels. Once the worker believes they have reached the desired level they will present themselves to undergo a further test.

Only if the test is negative will the worker be able to resume their normal duties.

- SCS will recommend to the worker that they seek medical and/or counselling help.

**Second Positive:** If a worker records a confirmed positive test result for the second time for alcohol or drugs then the following will apply:

- The worker will be sent home on either earned annual leave or unpaid leave at the worker's choice and given a final written warning.
- In the event of the positive result being for alcohol and drugs other than cannabis, the worker will present themselves for their next normal shift and undergo a further test. If the test is positive, it will be treated as a third positive.

Only if the test is negative will the worker be able to resume their normal duties.

In the event of the positive result being for cannabis, the worker shall be given a reasonable number of personal testing kits for the worker to monitor their own levels. Once the worker believes they have reached the desired level they will present themselves to undergo a further test.

Only if the test is negative will the worker be able to resume their normal duties.

The worker must undertake counselling and/or seek medical help. The Counsellor shall decide when enforced counselling is over.

**Third Positive:** Formal disciplinary procedures will be invoked to ascertain if any mitigating circumstances exist and to allow the worker to state their case. Unless there are convincing arguments to the contrary, the worker may be dismissed without notice.

## 10.2 Serious Breaches

The breaches described at paragraphs 8.3.1 and 8.3.3, and behaviours and conducts constituting alleged breaches of the Regional NSW Code of Ethics and Conduct and section 7 Government Sector Core Values of the Government Sector Management Act 2013, will be dealt with in accord with disciplinary procedures.

## 10.3 Contractors and Others

The following action will be taken when a contractor or visitor individual is found to have a reading greater than the allowable limit after confirmation of a positive test:

- The contractor and/or visitor company shall be informed of the result and the contractor/visitor shall have the individual removed from the worksite.
- Provision for reinstatement or reimbursement of lost time or leave due to stand down time will not be considered by SCS.
- SCS will consider on a case by case basis, whether it is appropriate for the contractor involved to continue working on SCS controlled sites.

## 11.0 References

The content of the following documents are closely related to this one and all should be checked for cross reference and alignment:

- AS/NZS 4760:2019 *Procedure for specimen collection and the detection and quantification of drugs in oral fluid*
- AS 3547:2019 *Breath alcohol testing devices*
- Code for the Tendering and Performance of Building Work 2016 (Schedule 4 Fitness for Work/Alcohol and other drugs in the workplace) made under Section 34 of the *Building and Construction Industry (Improving Productivity) Act 2016*
- Government Sector Core Values under Section 7 of the *Government Sector Management Act 2013*,
- Road Transport Act 2013 NSW
- Regional NSW - Code of Ethics and Conduct July 2020
- IMSAFER Personal Safety Self-Assessment Checklist
- Reasonable Grounds for Drug and Alcohol checklist
- Self-Declaration of Medication Use

## 12.0 Definitions

All terms used in this procedure are intended to have their standard dictionary meaning.

|                                   |  |
|-----------------------------------|--|
| <b>Authorised Testing Officer</b> | A person who is trained and authorised to undertake drug and alcohol testing and to receive, view and forward information to an individual in relation to results of testing.  |
| <b>Alcohol</b>                    | All substances containing alcohol  |
| <b>Chain of Custody</b>           | A series of processes to account for the integrity of each specimen by tracking its handling and storage from point of specimen collection to final disposal of the specimen.  |
| <b>Drugs</b>                      | This shall include any drug that: <ul style="list-style-type: none"><li>• Is an illicit substance or any synthetic drugs or substance that affects performance or creates mental impairment</li><li>• Is any over the counter medication not requiring a prescription from a medical Doctor</li><li>• Involves the medically authorised use of prescription medications capable of causing dependency, mood alteration, or impairment of coordination, concentration, or judgment.</li></ul>                                       |
| <b>Fitness for Work</b>           | The required level of mental or physical fitness to enable a worker to perform their usual work duties safely and efficiently.   |
| <b>Impairment</b>                 | Impairment is the inability to perform one's job in the manner prescribed for that function or in accordance with established practice. Impairment includes, but is not limited to, the inability to: <ul style="list-style-type: none"><li>• Use or operate equipment or tools properly</li><li>• Communicate clearly</li><li>• Exercise reasonable judgement in making decisions</li><li>• Interface with other workers or business contacts in an appropriate manner</li><li>• Act in an appropriate personal manner.</li></ul> |
| <b>ng/mL</b>                      | Nanograms per millilitre   |
| <b>ug/L</b>                       | Micrograms per litre   |
| <b>Witness</b>                    | Any person on site who is readily available and chosen by the person selected for testing, to observe the testing process  |
| <b>Worker</b>                     | Worker includes, employees, visitors, contractors, and any other person consistent with the definition of worker in Section 7 of the WHS Act NSW 2011  |

## 13.0 Review date

This procedure is to be reviewed within one year of the approval date to ensure relevance.

## 14.0 More information

For more information, please discuss and refer to your supervisor/manager.