

# Managing Intoxicants in the Workplace

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# Presentation will mainly cover

- Requirements under health and safety legislation
- Testing for intoxicants
- Policy on intoxicants

# Workplace vehicle fatalities

- Almost **half** of all reported workplace deaths to the HSA involve a vehicle
- Up to a **third** of deaths relate to vehicles on the road
- Could intoxicants be a contributory risk factor?



# Definition of Intoxicant




- There are a number of definitions
- Intoxicant is defined in the Safety, Health and Welfare at Work Act, 2005 as;
  - *Intoxicant includes alcohol and drugs and any combination of drugs or of drugs and alcohol*
- This is a broad definition including both legal and illegal substances, prescribed drugs and over the counter medications



# Duties of Employer

- No explicit duty on employer under 2005 Act
- However Section 8 (2) (b) of the 2005 Act requires **employer to manage and conduct work activities** in such a way as to prevent , so far as is reasonably practicable, any improper conduct or behaviour likely to put the safety , health or welfare at work of his or employees at risk
- An employee under the influence of an intoxicant while driving at work could pose a risk to his/her own safety and that of others

## Duties of Employer (continued)

-  Under Section 19 of the 2005 Act, the employer must identify hazards and carry out a risk assessment and these form part of the safety statement required under Section 20
-  An intoxicated employee at work can be a hazard and pose a risk
-  Idea of dynamic risk assessment by manager/supervisor to limit risk posed by an employee who is under the influence at work

## Employee under the influence

- If you have good reason to believe an employee is under the influence and is posing a health and safety risk, you should act to remove him/her from the risk
- Normally based on opinion of at least 2 people
- This may mean requiring the employee to stop work and be brought home



# Duties of Employee



Under Section 13 (1) (b) of the 2005 Act, an employee while at work must ensure that he/she is not under the influence of an intoxicant to the extent that he/she is in such a state as to endanger his/her own safety, health or welfare at work or that of any other person







## Section 13 (1)(c) Testing

- Makes provision for testing of employees for intoxicants as may be prescribed
- Minister is the only person who can prescribe regulations on testing
- **This has not happened to date and is unlikely to in short/mid term**
- Therefore employers cannot quote /use this section to compel employees to submit to tests
- Testing should only be carried out if it is part of a contract of employment or collective agreement

# Testing (continued)

- It is a complex issue
- Where it is carried out it should be appropriate, reasonable and proportionate and under the supervision of a doctor who is competent in the area
- It is recommended that testing is carried out in accordance with a recognised standard such as the European Laboratory Guidelines for Legally Defensible Workplace Drug Testing



# Policy on intoxicants

- Having a policy on intoxicants is advised as it can both act as a preventive measure and outlines a procedure for dealing with the issue should it arise. Policy should cover:
  - Company expectations and culture
  - Roles and responsibilities of all
  - Training (managers) and information
  - Consultation/communication/involvement
  - Employee assistance programmes
  - Disciplinary measures
  - Absence management



# Sources of Information

- Information Sheet on Intoxicants at Work, (HSA 2011) available as a free download from [www.hsa.ie](http://www.hsa.ie)
- Guidelines for Workplace Representatives Negotiating Workplace Drug and Alcohol Policies (ICTU, 2011)
- Workplace Drug Testing, (Pharmaceutical Press, London, UK, 2011)
- Irish Civil Service Alcohol and Drugs Misuse Policy , Circular 08/09 (Department of Finance, 2009)
- Dealing with Addiction, a Model Policy for Use in the Workplace, (SIPTU, 2009)
- Drug and Alcohol Testing Guideline (IBEC, 2008)
- Guidelines on Intoxicants (IBEC, 2007)
- European Laboratory Guidelines for Legally Defensible Workplace Drug Testing, European Workplace Drug Testing Society (EWDTS, 2002)

Thank you.  
Questions?

