

# Rights and responsibilities of the Occupational Health and Safety Act

 [By Rhys Evans](#)

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People are the most important asset of any organisation, and all employees are entitled to the highest consideration for their safety while in the workplace.



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The Occupational Health and Safety (OHS) Act is a proactive attempt by the government to provide and maintain a safe and healthy work environment for all, and is something that must be enforced in any organisation in any industry.

One of the safety regulations of this Act is that no person with any amount of intoxicating substance in his body is permitted to enter or remain at a workplace. Contravention of the Act may result in penalties; however, aside from the negative implications, compliance with OHS also provides numerous benefits. It is the responsibility not only of employers, but employees as well, to enforce and adhere to the OHS Act to prevent unnecessary injury, illness and loss.

According to the OHS Act, employers are required to provide and maintain a safe working environment that does not present risk to the health of employees, in line with the hazards and risks presented by that particular working environment. Employees are responsible for ensuring they take reasonable care with regard to their own health and safety as well as that of others who may be affected by their actions.

Employees are also required to cooperate with other persons in their efforts to comply with the Act, and obey health-and-safety rules and procedures as laid out by the organisation. In addition, if any unsafe or unhealthy situation should come to the attention of an employee, it is his responsibility to report the situation to his employer or health-and-safety representative.

## **Joint responsibility**

Both employees and employers share the responsibility for ensuring that the workplace is a safe environment, and the OHS Act underpins these efforts. Intoxication is one of the major considerations laid out by the Act, which states that employers may not permit any person who is or appears to be under the influence of alcohol or drugs to enter or remain at the workplace. Employees are, further, not permitted to be under the influence, be in the possession of, partake in or offer other employees any drugs or alcohol at the workplace.

Organisations are required to ensure that they take reasonable measures to remove or mitigate these risks. These measures include the development and implementation of substance abuse policies, procedures and programmes, as well as the use of accurate, reliable testing to identify intoxicated persons.

Employees need to be made aware of these practices and testing procedures, as they may face disciplinary action, including suspension or termination of employment, if they are in contravention of stipulated rules and regulations.

## **Guide employers and protect employees**

The OHS Act is designed to guide employers and protect employees, and while it is legally enforceable there are also significant benefits to preventing intoxication in the workplace. These include improved productivity, better health of employees, safer and happier work environments, fewer incidents of workplace accidents and violence and more.

In addition, if an organisation is in breach of the OHS Act and is not conducting testing for intoxicating substances, it will be liable to pay compensation should an accident occur. It could also be fined and will lose production time in the event of an incident. While testing of employees is vital, it is also essential that these policies and procedures are fair and non-discriminatory. Employees should not feel they are being victimised, therefore testing must be unbiased and all employees should be tested equally.

Compliance with the OHS Act is mandatory for all organisations - and particularly those in hazardous industries, including mining, manufacturing, transport and construction. Proper communication is essential, as organisations cannot simply put rules into place without ensuring understanding from all parties involved. Professionals in the field including drug- and alcohol-testing experts, labour lawyers, and health-and-safety specialists, can assist organisations to ensure they have the highest levels of compliance, health and safety.

## **ABOUT RHYS EVANS**

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