SUBSTANCE ABUSE
in the workplace

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An employer is obliged to create and maintain a safe and healthy working environment. This includes ensuring that employees are not under the influence of intoxicants whilst on duty. Dealing with employees who are under the influence of intoxicants can be perplexing for employers, especially, when an employer is unsure of its obligations, what the appropriate measures are to combat substance abuse in the workplace and how to effectively deal with an employee who is under the influence of alcohol or drugs, as the case may be. Monitoring substance abuse in the workplace has been further complicated by remote working as employees are no longer subjected to tests for intoxication and employers are unable to monitor common signs of intoxication displayed through body language or physical appearance.

THE RELEVANT LEGISLATION AND/OR POLICIES

Employers are obliged to provide and maintain a safe and healthy working environment. To this end, section 8(1) of the Occupational Health and Safety Act, Act 58 of 1993 (OHSA), provides that *"every employer shall provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of his employees."*

In addition, regulation 2A of OHSA, addresses the issue of intoxication and states that any employer or user, as the case may be, shall not permit any person who is, or who appears to be under the influence of intoxicating liquor or drugs, to enter or to remain at a workplace. Furthermore, no person at a workplace shall be under the influence of or have in his/her possession or partake of or offer any other person intoxicating liquor or drugs.

The obligation to ensure employees are not intoxicated while on duty is for the safety of the intoxicated employee as well as all other employees in the workplace. Intoxication is not only a safety concern, but also has the potential to cause reputational damage.

HOW SHOULD AN EMPLOYER REGULATE ALCOHOL AND DRUGS IN THE WORKPLACE?

Employers should have a zero-tolerance alcohol and drug policy which clearly and accurately reflects the employer's position. The policy should prohibit any trace of alcohol or drugs in an employee's system when the employee reports for duty and/or performs his/her work.

WHAT DOES A ZERO-TOLERANCE SUBSTANCE ABUSE POLICY MEAN IN PRACTICE?

Zero-tolerance means that employees may not even arrive at work smelling of alcohol that was consumed the previous night and that failing a breathalyser test is not necessary for a breach of the policy. To be accused of *"having arrived for work after having consumed alcohol (or drugs), or with alcohol smelling on the breath"*, the employee does not necessarily have to be plainly intoxicated or to have consumed alcohol over the legal limit.

The employer's policy regarding alcohol or drug use while on duty, off duty or before coming to work, must be very specific, clear and unambiguous and must make clear to employees that should the rule be contravened, what sanctions will then ensue.

WHY IS IT IMPORTANT TO HAVE AN ALCOHOL AND SUBSTANCE ABUSE POLICY IN PLACE?

If the employer has no such policy in place, the employer cannot take disciplinary action against an employee for breaking a rule that does not exist.

WHAT ARE SOME OF THE RULES THAT AN EMPLOYER MAY HAVE IN PLACE IN RELATION TO THE USE OR ABUSE OF ALCOHOL AND DRUGS IN THE WORKPLACE?

Rules that are designed to discourage or prevent the use or abuse of alcohol or drugs during working hours, may take one of the following forms:

- a prohibition on the possession of alcohol and/or drugs in the workplace;
- a prohibition on being under the influence of alcohol and/or drugs during working hours;
- a prohibition of being under the influence of alcohol and/or drugs to the extent that the employee's work performance is impaired; and/or
- a rule precluding the alcohol content in employees' bloodstream from exceeding a certain level.

An employer must ensure that employees are well informed of the employer's rules and its zero-tolerance approach as per its alcohol and drug policy as well as its disciplinary code and procedure.

Additionally, whatever the nature of the rule, the employer must prove the employee's knowledge of the rule and that the rule has been contravened when taking disciplinary action for any contravention.

CAN A ZERO-TOLERANCE POLICY PROVIDE FOR AN EXEMPTION TO THE RULE IN RELATION TO CONSUMPTION OF ALCOHOL DURING WORK FUNCTIONS?

Yes. It may, however, the employer should not condone employees driving home under the influence of alcohol. Neither, should the employer accept any liability for any harm which may arise from the employee driving over the legal limit.

An employer may not, however, provide exemptions contrary to law.

WHAT ARE SOME OF THE MEASURES AN EMPLOYER MAY IMPLEMENT TO ENSURE THAT EMPLOYEES DO NOT DRIVE UNDER THE INFLUENCE FOLLOWING WORK FUNCTIONS?

Measures at preventing employees from driving over the legal limit may include:

- making breathalysers available for employees to test whether they are within the legal limit before driving home;
- restricting the amount of alcohol each employee may consume;
- providing the details of a taxi service; and/or
- arranging transport for employees.

WHAT ARE SOME OF THE COMMON SIGNS THAT AN EMPLOYEE MAY BE INTOXICATED?

The following may be indicative signs that an employee is under the influence of alcohol or drugs:


the smell of alcohol on the breath of an employee,


bloodshot eyes,


slurred speech;


an employee being unsteady on his/her feet;

aggressive or confrontational behaviour;


an employee turning his/her face away whilst being spoken to;


shielding the mouth with a hand when speaking; and/or


unusually dishevelled appearance.

IS IT SUFFICIENT FOR AN EMPLOYEE TO ONLY EXHIBIT ONE OF THE COMMON SIGNS OF INTOXICATION TO BE CONSIDERED UNDER THE INFLUENCE, OR SHOULD A FURTHER TEST BE PERFORMED?

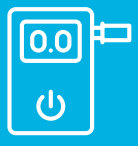
It is not sufficient for an employer to dismiss an employee on the basis that he/she arrived at work showing one or more of the common signs of intoxication. The common signs of intoxication exhibited by the employee should lead the employer to undertake the relevant tests to confirm whether the employee is indeed intoxicated.

In *Ramoitshane/Dixon Batteries (Pty) Ltd (2009) 18 NBCCI* – the employee was dismissed for being under the influence of alcohol due to the fact that his eyes were bloodshot, and the fact that he arrived late for work. The employee contended that his eyes were blood shot since he suffered from a chronic problem resulting in red eyes. The employee's blood shot eyes coupled with a previous warning for arriving at work under the influence of alcohol led the employer to believe that the employee was once more under the influence of alcohol and the employee was subsequently dismissed. The commissioner found it strange that the employer did not have any breathalyser tests available when the employee insisted on being tested and questioned the requirement of the zero-tolerance policy enforced by the employer if breathalyser tests were not even available when required. The commissioner also added that an employee that is under the influence of alcohol would not insist on being tested if he was indeed intoxicated. The dismissal was found to be substantively unfair and the employee was reinstated with back pay.

WHAT IS A BREATHALYSER?

A breathalyser is an electronic device for measuring the breath alcohol content. The breath alcohol content can be used to accurately measure a person's blood alcohol content.

There is a direct correlation between a person's breath alcohol contents and his blood alcohol concentration. During respiration, alcohol in the blood vaporizes and is carried out of the lungs in the exhaled breath. There are several types of breath alcohol testers available today.



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ARE EMPLOYERS PERMITTED TO PERFORM A BREATHALYSER TEST ON EMPLOYEES WHOM THEY SUSPECT MAY BE INTOXICATED?

The breathalyser test can be carried out by an employer, at the workplace, or by a person who has been trained in the proper use of the instrument. The employee's consent to undergo testing must be obtained in writing. The employee is entitled to the presence of a representative to witness the procedure (*National Union of Metalworkers of South Africa obo Johnson/Trident Steel (Pty) Ltd [2013] 1 BALR 27 (MEIBC)).* The employer is also entitled to the presence of a witness.

The employer should ensure that the breathalyser equipment is properly calibrated in the presence of the employee and his/her representative. In addition, the employer's zero-tolerance policy must clearly state what level of intoxication, if any, will be allowed. Alternatively, the policy must state that even if the employee tests for an amount under the legal limit that he/she may face disciplinary action in terms of the employer's substance abuse policy. It is imperative that the manner in which the employer will address the results of the breathalyser test is clearly dealt with in the substance abuse policy.

WHAT ARE FIELD SOBRIETY TESTS?

Field Sobriety Tests are commonly used by police officers to determine if a driver is impaired. The test assesses balance, coordination, and the ability of the driver to divide his/her attention to more than one task during the said test.

Examples of the field sobriety tests include:

- horizontal gaze test, which involves following an object with the eyes (such as a pen) to determine characteristic eye movement reaction;
- walk-and-turn (heel-to-toe in a straight line). (This test is designed to measure a person's ability to follow directions and remember a series of steps while dividing attention between physical and mental tasks);
- one-leg-stand;
- modified-position-of-attention (feet together, head back, eyes closed for thirty seconds; also known as the Romberg test);
- finger-to-nose (tip head back, eyes closed, touch the tip of nose with tip of index finger);
- touch each finger of hand to thumb counting with each touch (1, 2, 3, 4, 4, 3, 2, 1); and/or
- count backwards from a number such as 30 or 100.

IS THE EMPLOYEE'S CONSENT REQUIRED PRIOR TO SUBJECTING THE EMPLOYEE TO A TEST FOR INTOXICATION?

Yes. It is advisable to obtain the employee's consent either at the beginning of the employment relationship by means of a clause in the employment contract or by way of consent to an employer's substance abuse policy.

CAN A NEGATIVE INFERENCE BE DRAWN FROM AN EMPLOYEE'S REFUSAL TO UNDERGO TESTING?

No. If the employee had consented to testing in their contract of employment, but when called upon for a test, refuses, the employee should be disciplined for such refusal.

MAY THE EMPLOYEE WHO REFUSES TO UNDERGO TESTING BE FOUND GUILTY BASED ON THEIR REFUSAL?

No. In *Arangie and Abedare Cables (2007) 28 ILJ 249 (CCMA)*, the employee was aware of the employer's policy which allowed for random alcohol testing when it appeared that employees may be under the influence of alcohol and if its employees refused to be tested, the employees had to leave the workplace. The employee refused to undergo the test or to leave the workplace. The employee was charged with insubordination. The employee was found guilty and subsequently dismissed. The commissioner found that the employee had deliberately disobeyed the instructions given to him/her either to take the test or to leave the premises, and that he/she was at the time, already on a written warning for insubordination. The commissioner found that the employee's offence was sufficiently grave to render the continued employment relationship intolerable. Dismissal was found to be an appropriate sanction.

WHAT ARE SOME INDICATIONS THAT AN EMPLOYEE MAY HAVE AN ALCOHOL OR DRUG PROBLEM?

The following may be indicative of an alcohol or drug problem:

- Deterioration in the output, quality and quantity of work delivered by the employee.
- Frequent absenteeism.
- Excessive use of sick leave without producing a medical certificate.
- Excessive absenteeism from work particularly on a Friday and/or Monday.
- Constant unexplainable absences from the employee's work station.
- Frequent excuses for non-attendance at work for extended periods.
- Frequent excuses for failing to meet deadlines at work.
- Constant requests for advances on wages/salary.
- Constant displays of common signs of intoxication.

WHAT IS THE POSITION REGARDING EMPLOYEES AT THE WORKPLACE WHO TAKE MEDICATION THAT MAY HAVE SIDE EFFECTS THAT IMPAIR THEIR ABILITY TO PERFORM THEIR DUTIES?

In terms of Regulation 2A of the OHSA, an employer or a user, as the case may be, may only allow a person taking medication to perform his/her duties at the workplace if the side effects of such medicines do not constitute a threat to the health or safety of the person concerned or other persons at such workplace.

DOES AN EMPLOYER HAVE THE RIGHT TO DISCIPLINE EMPLOYEES FOR THEIR CONDUCT OUTSIDE OF THE WORKPLACE?

The employer has an interest in its employee's conduct outside the workplace only to the extent that it may have affected his/her capacity to perform during working hours or where the employee's conduct can be shown to have brought the good name of the employer in disrepute.

IS DISCIPLINARY ACTION AN APPROPRIATE SANCTION FOR ALCOHOL ABUSE?

Item 10 of the Code of Good Practice on Dismissal (Code) endorses the view that disciplinary action may not always be appropriate in dealing with alcohol or drug abuse and that counselling and rehabilitation may be appropriate. It states: *"... In the case of certain kinds of incapacity, for example alcoholism or drug abuse, counselling and rehabilitation may be appropriate steps for an employer to consider."*

WHEN MAY AN EMPLOYER DISMISS AN EMPLOYEE FOR SUBSTANCE ABUSE? SHOULD THE DISMISSAL BE BASED ON MISCONDUCT OR INCAPACITY?

If the employee regularly drinks at work or regularly arrives at work drunk, then it certainly affects his/her ability to perform, and also affects the relationships with fellow employees and clients. This becomes an issue of incapacity, rather than misconduct. However, if it is a once-off offence and it is not a sickness as such, the conduct lends itself to misconduct.

"...Rehabilitative steps need not be undertaken at the employer's expense, unless provision is made for them in a medical aid scheme."

IS THE EMPLOYER OBLIGED TO PROVIDE REHABILITATION TO AN EMPLOYEE WHO HAS A PROBLEM WITH SUBSTANCE ABUSE?

In *Transnet Freight Rail v Transnet Bargaining Council & Others (2011) JOL 2699 (LC)* (Transnet), the Labour Court held *"In fact, the requirement to assist such employees by providing them with treatment has been widely accepted. However, when an employee, who is not an alcoholic and does not claim to be one, reports for duty under the influence of alcohol, she will be guilty of misconduct. The distinction between incapacity and misconduct is a direct result of the fact that it is now accepted in scientific and medical circles that alcoholism is a disease and that it should be treated as such".*

The Labour Court further stated that *"Where an employee is suffering under incapacity as a result of their alcoholism, the employer is under an obligation to counsel and assist the employee in accessing treatment for their disease. The purpose of placing such a duty on an employer is based on the current medical understanding of alcoholism – that it is a diagnosable and treatable disease. This disease results in the incapacity of the employee. In terms of how to deal with the employee, the distinguishing feature in such cases of alcoholism appears to be, as with all instances of incapacity, that the employee is not at fault for her behaviour – the employee cannot be blamed for their disease and its impact on their behaviour and discipline would be inappropriate in the circumstances".*

DOES THE EMPLOYER HAVE TO ASSIST AN EMPLOYEE FINANCIALLY WITH TREATMENT?

In Transnet, the Labour Court stated *"...Rehabilitative steps need not be undertaken at the employer's expense, unless provision is made for them in a medical aid scheme."*

Generally, assistance to employees in the case of smaller companies may take the form of providing the employee with details of counselling groups and rehabilitation centres, whilst in the case of larger companies, they may establish or align themselves with employee assistance programmes.

WHAT IS THE POSITION WHEN AN EMPLOYER HAS ASSISTED AN EMPLOYEE WITH REHABILITATION AND THE EMPLOYEE HAS RELAPSED?

If an employee undergoes a rehabilitation program provided by an employer as stated in the alcohol and drug policy, and later reverts to his/her old habits, then the employer does not have an obligation to offer the program to the employee again. An employer may follow a process to secure the fair dismissal of the employee.

WHAT IS AN EMPLOYER REQUIRED TO PROVE WHEN CHARGING AN EMPLOYEE WITH BEING UNDER THE INFLUENCE?

In *NUMSA obo Mbali and Schrader Automotive SA (Pty) Ltd (2005) (MEIBC)* the employee arrived at work reeking of alcohol and his blood alcohol level registered 0.05% per 100ml. The employee was charged with and dismissed for being under the influence of alcohol during working hours. The employee claimed that he was not under the influence of alcohol and last consumed alcohol the night before at 21H00. Witnesses testified that the employee reeked of alcohol but did not exhibit any other signs of being under the influence of alcohol. The commissioner found the dismissal unfair and reinstated the employee, since the employer could not prove that the employee was under the influence of alcohol, that is that the employer was unable to prove that the employee was unable to perform his normal duties as a result of being under the influence of alcohol.

Notably, breaches of some rules are easier to prove than others. A breach of a rule prohibiting possession of alcohol is proved by the mere possession. Whilst a rule prohibiting being under the influence of alcohol requires far less rigorous proof then a rule that prohibits being under the influence to the extent that the employee's work performance is diminished. Therefore, employers should carefully consider what rules they require to have in their alcohol and drug policies.

WHAT WAS DECIDED BY THE CONSTITUTIONAL COURT'S IN RELATION TO THE USE OF CANNABIS?

In *Minister of Justice and Constitutional Development and Others v Prince*; *National Director of Public Prosecutions and Others v Rubin; National Director of Public Prosecutions and Others v Acton and Others [2018] ZACC 30*, the Constitutional Court permitted, the use, possession and cultivation of cannabis in a private place for personal consumption, by adults. "*In private*" is not confined to one's "*home*" or "*private dwelling*". Additionally, as long as the adult person uses, possesses or cultivates cannabis in a private space he/she will not be subject to criminal sanction.

IS A WORKPLACE A PRIVATE SPACE?

No. The workplace is not a private space particularly in the case where the employer has numerous employees in the workplace.

CAN EMPLOYEES USE, POSSESS AND CULTIVATE CANNABIS IN THE WORKPLACE?

No. The employer should regulate this issue within its disciplinary code and substance use policy. The use, possession, smoking and cultivation of cannabis at the workplace should be expressly prohibited and subject to disciplinary action if contravened by an employee. Such an employee may also be subject to criminal proceedings.

WHAT IS THE BASIS FOR THE PROHIBITION OF USE, POSSESSION AND CULTIVATION OF CANNABIS AT THE WORKPLACE?

The basis of the prohibition would be that the workplace is a public space and that there are non-consenting employees who will be exposed to cannabis. Further, that the use of cannabis whilst at work, will in all probability, have an impact on the conduct and/or capacity of employee, more so when it comes to employees who operate machinery, drive vehicles or undertake dangerous work. It is also still a criminal offence to consume and/or possess cannabis in public.

WHAT ARE SOME OF THE SIDE EFFECTS OF CANNABIS USAGE?

- dizziness, drowsiness, feeling faint or lightheaded;
- impaired memory and disturbances in attention, concentration and ability to think and make decisions;
- suspiciousness, nervousness, episodes of anxiety, paranoia, and/or
- impairment of motor skills and perception.

WHAT ACTION CAN AN EMPLOYER TAKE IF AN EMPLOYEE IS FOUND TO USE, POSSESS OR CULTIVATE CANNABIS IN THE WORKPLACE?

The employer may, depending on the terms of the disciplinary code and procedure and its policy, take disciplinary action against such an employee.

The use, possession, smoking and cultivation of cannabis at the workplace should be expressly prohibited and subject to disciplinary action if contravened by an employee.

WHAT IS THE POSITION IN CASE LAW IN RELATION TO EMPLOYEES WHO WERE FOUND GUILTY OF CANNABIS USAGE AND WHO WERE SUBSEQUENTLY DISMISSED?

In *Moodley and Clover SA (Pty) Ltd (2019) 40 ILJ 2857 (CCMA),* the employee (who previously underwent 2 months of drug rehabilitation) had allegedly been smoking cannabis at work while in the company motor vehicle. The employee underwent a urine test to confirm that he had in fact been smoking cannabis. The urine test confirmed high levels of Tetrahydrocannabinol (THC) in the employee's system. The employee indicated that the high levels of THC had been from "*space cookies*" that he consumed at a family function the week before. It was common cause that the employer had a zero-tolerance policy towards employees being under the influence of drugs or alcohol at the workplace; that the employee's job required him to be able to enter any division on the site; that different divisions operated large or dangerous machinery; and that it was part of his job function to 'police' other employees' compliance with the employer's policies. The employee admitted being aware of the rule but denied seeing the employer's policy titled 'Guidelines: cannabis legislation' before his hearing. Witnesses had testified to the smell that emanated from the vehicle as well as to the employee's behaviour once he emerged from the vehicle. The commissioner found the evidence presented favoured the employer's version, that the employee had indeed been smoking cannabis. The commissioner found the employee's dismissal was fair.

In *Mthembu & others and NCT Durban Woodchips (2019) 40 ILJ 2429 (CCMA)* the commissioner confirmed that it was clear that the employer had a zero-tolerance rule in place, and which was known to its employees. The question was whether the rule was reasonable, given the employees' claim that they used cannabis only in their private time. The commissioner stated that as with alcohol, where there was an inkling that intoxication could impair one's ability to work to the standard, care and skill required by the employer, the employer was entitled to take disciplinary action. In this case, the nature of the employer's business was such that a rule prohibiting employees from working under the influence of any intoxicating substance was reasonable. In particular, the employer had explained the nature of each employee's duties and the dangers he would face if at work under the influence of cannabis. The respective employees were fully aware of the rules and had sufficient skill and knowledge to be aware of the risk of presenting themselves for duty under the influence of cannabis.

Furthermore, the employees knew about the zero-tolerance rule. They had sufficient time to adjust their private use of cannabis to the working environment and the onus fell on them to ensure that such use did not result in them reporting for duty under the influence. They showed no genuine remorse neither did they undertake not to repeat the offence. As such no rehabilitation or training would have had an impact and the commissioner was satisfied that the employer had justified the sanction of dismissal

IS AN EMPLOYEE EXPECTED TO BE SOBER WHILST WORKING FROM HOME?

The OHSA defines a workplace as any premises or place where a person performs his/her work in the course of his/her employment. This sufficiently includes the employee's workspace whilst working remotely and therefore, the labour laws and employer policies still apply to remote working and this includes the consumption of alcohol and drugs during working hours even though the employer may not physically be able to see the employee.

MAY AN ALCOHOL AND DRUG POLICY DISCRIMINATE BETWEEN CLASSES OF EMPLOYEES?

Yes, an alcohol and drug policy may fairly discriminate between the rules of one class of employee and that of another class. For example, the office worker who arrives at work smelling of alcohol is not endangering life or limb by sitting at his/her desk and working even though not at peak efficiency. However, the truck driver, if he arrives at work smelling of alcohol and the employer allows him to drive and an accident ensues wherein a life is lost, then the employer could easily be held liable because he permitted the employee to drive.

WHAT ARE THE PENALTIES FOR NON-COMPLIANCE WITH THE OSHA?

An employer that fails to comply with its duties in terms the OHSA shall be guilty of an offence in terms of section 38(1) of the OHSA and shall be liable on conviction to a fine not exceeding R50,000 or imprisonment for a period not exceeding one year, or both.

MAY AN EMPLOYER REQUIRE AN APPLICANT TO A POSITION TO UNDERGO ALCOHOL OR DRUG TESTING?

Certain jobs require a higher degree of alertness or responsibility or may involve considerations of public safety. Simply put, it is possible for an employer to argue that, due to the 'inherent requirements' of a particular job, compelling reasons exist to allow it to subject an applicant to alcohol and drug testing. As with all forms of pre-employment medical testing, one of the main considerations is privacy, which must be carefully balanced with the above considerations.

WHAT IS THE IMPACT OF THE PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013 (POPI) ON ALCOHOL AND DRUG POLICIES AND THE PROCESSING OF EMPLOYEES' MEDICAL INFORMATION?

The provisions of POPI will apply when requesting employees or job applicants to make disclosures regarding their health as a part of their medical records, records obtained as part of a pre-employment medical questionnaire or examination and various drug or alcohol test results. Therefore, the employee's consent may be mandatory. It is, however, debatable whether an employer may rely on other sources of law, the public interest, or the contract of employment as a basis upon which to process the said special personal information.

HOW DOES INTERNATIONAL CASE LAW IN RELATION TO SUBSTANCE ABUSE IN THE WORKPLACE COMPARE TO THE SOUTH AFRICAN POSITION?

In *Jacobsen v Nike Canada Ltd., 1996 CanLII 3429 (BCSC)* (a Canadian case) The employee consumed 8 beers at work. While driving home, he fell asleep and met in an accident which rendered him a quadriplegic. Even though the employee had voluntarily consumed the beers, the court held that Nike was 75% responsible for the employee's injuries. It made the decision based on the fact that Nike had a common law duty to take reasonable care for the safety of its employees to get home safely after finishing work at a location that was not their regular workplace, and especially because it had supplied the initial eight beers that the employee had consumed.

The court further held that if the employer had at least attempted to prevent its employee from driving home by confiscating his keys or by calling him a taxi, it would have been absolved of a considerable amount of its liability. Although not the position in South Africa, this case does indicate how an employer who failed to take preventive measures and who allowed its employee to drive under the influence could be held liable.

In *Lunsford v Sterilite of Ohio, L.L.C. 2020 Ohio 4193* (Supreme Court of Ohio)- the employer implemented a substance abuse policy that required employees to submit a urine sample for drug testing. The employees claimed invasion of privacy. However, the Supreme Court found that the trial court correctly determined that the former employees failed to sufficiently plead invasion of privacy claims, because the employees consented, without objection, to the collection of their urine samples under the direct-observation method. Furthermore, the employees' claim that their consent was involuntary due to their fear of termination lacked merit because the employer had the right to condition employment on consent to drug testing under the direct-observation method. The employees had the right to refuse to submit to the direct-observation method, and the employer had the right to terminate the employees for their failure to submit.

However, in South Africa, the employer would require the employee's consent prior to requiring its employees to undergo drug or alcohol testing. As previously mentioned, the provisions of POPI will apply.

BBBEE STATUS: LEVEL ONE CONTRIBUTOR
Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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