



## ALCOHOL INTAKE – WHEN IS DISMISSAL FAIR?

The General Safety Regulations (GSR) of 1986, as amended in June 2003, contains provisions regarding duties of employers regarding intoxication. These provide that an employer shall not permit any person who is or appears to be under the influence of intoxicating liquor or drugs to enter or remain in the workplace and that no person at a workplace shall be under the influence of or have in his possession or partake of or offer any other person intoxicating liquor or drugs.

The focus of the GSR is safety of employees, the employer, other users and members of the public. It simply prescribes a prohibition consistent with its aim. The question that arises is whether an employer can dismiss an employee who is under the influence of alcohol or appears to be under the influence of alcohol. Is it a straightforward dismissible offence if the employee is found to be under the influence of alcohol in the workplace? What about instances where the employee has actually tested positive for alcohol? Is a positive test equivalent to being under the influence of alcohol?

In *Tosca Labs v CCMA 2012* the Labour Court found that a breathalyser test is not enough nor sufficient to prove that an employee is under the influence of alcohol. Greater emphasis is placed on whether or not the employee is actually impaired from performing his duties. The GSR also refers to prohibition of an employee from being at a workplace on the basis that he appears to be under the

influence of alcohol. This would be based on the 'sensual perception' of the observer, which may include the behaviour of the employee, whether the speech of the employee is slurred, whether the employee's breath smells of alcohol, whether the employee has bloodshot eyes, and whether the employee's movements are unsteady and show a lack of coherence.

In terms of the Labour Relations Act of 1995 as amended, an employee who arrives at work under the influence of alcohol and who sneaks out during a break to go and drink alcohol or who consumes alcohol in the workplace is committing a misconduct and would need to be dealt with in line with the general manner in which misconduct is handled.

This problem is not only caused by alcohol intake but also other intoxicating drugs or substances. How do we deal with this problem given the fact that the Labour Court ruled with authority that being under the influence of alcohol is by itself not a fair reason to dismiss the employee?

The best way to deal with this situation is to formulate a workplace rule which specifically prohibits employees from coming to work under the influence of alcohol, or smelling of alcohol or any substance with a narcotic effect. A workplace rule must adhere to the following requirements to meet the standard set in Schedule 8 of the Labour Relations Act (LRA).

In instances where there are proceedings against the employee and there is a need to adjudicate on a fair reason for a dismissal occasioned by an alleged contravention of a workplace rule, the following would be considered: (a) whether or not the employee contravened a rule or standard regulating conduct in, or of relevance to, the workplace, (b) if a rule or standard was contravened, whether such a rule was (i) a valid or reasonable rule or standard, (ii) whether the employee was aware of the rule or standard, (iii) whether the employer consistently applied the rule and (iv) whether dismissal is an appropriate sanction for the contravention of the rule or standard. This could also be incorporated into a workplace policy that all employees must adhere to.

The way to introduce these measures is through a consultative process, if they are not already in place. The policy must clearly state that the employer is adopting a zero tolerance strategy regarding alcohol and strict adherence to this policy is required of all employees. The policy must also state clearly in unambiguous terms that contravention of its provisions is a dismissible offence.

By applying these measures the employer would have effectively regulated the workplace against alcohol related misconduct and would not be required to demonstrate that the employee was actually impaired from performing his tasks as a result of the alcohol intake. A workplace rule of this nature is backed by the General Safety Regulations and cannot be said to be unreasonable.

## NEW ERA BEGINS FOR ZIMBABWEAN OIL ANALYSIS LAB



The most recently opened WearCheck laboratory is in Harare, Zimbabwe, where the company acquired Zimbabwe Tribology. Equipped with the latest high-tech instruments and with all staff undergoing WearCheck training, the lab offers fast sample turnaround time and highly accurate oil analysis results. Some of the lab technicians took a break for a photograph – they are, from left Nikanori Chikati; Talkmore Siyengi; Admire Katanda; Frank Chakonda (laboratory manager); Rangarai Mlambo; Emanuel Mhari; and Victory Dumbura. Condition monitoring specialists, WearCheck, process in excess of 600 000 oil analysis samples each year in 11 laboratories.



WearCheck managing director, Neil Robinson.

Electrical operations and other industrial concerns in Zimbabwe now have their very own local WearCheck laboratory. WearCheck, recently acquired the long-established oil analysis laboratory in the form of Zimbabwe Tribology Services, and brought it into the WearCheck fold.

WearCheck managing director Neil Robinson says the Zimbabwean laboratory has been operating for 27 years, and already services a wide range of clients.

"The WearCheck way is to help customers save money and time via a convenient 'one-stop-shop' offering the full spectrum of reliability solutions to getting plant to perform at its peak. As well as traditional oil analysis, WearCheck Zimbabwe also conducts thermography, vibration analysis, balancing, laser alignment, motor current analysis and milling," explains Robinson, who adds that he is "pleased with the company's expansion".

"We are delighted to welcome all existing and new customers to use WearCheck Zimbabwe's services. The transition - smooth to date - benefits customers by giving access to the full range of WearCheck services. Our laboratory instruments are constantly upgraded to remain at the forefront of international standards, while our staff members attend ongoing training courses to keep ahead of global condition monitoring trends."

Robinson says all the original staff members at the laboratory have remained, and have undergone WearCheck training. "We are currently equipping the laboratory with extra analytical instruments to align the test profiles with other WearCheck laboratories – next on the list for Zimbabwe is a new viscometer."

WearCheck Zimbabwe offers on-site sampling, as well as a 24-hour sample turnaround. Contact WearCheck Zimbabwe at 23 Amby Drive, Msasa, Harare, or telephone +263 4 446-369/71, mobile +263 712 631-026, or email service@tribology.co.zw

Enquiries: +27 31 700 5460



Admire Katanda, lab technician at WearCheck Zim operates a viscometer.

## First order for compact voltage transformers



Nick de Beer (product manager, instrument transformers) and Etienne Venter (design engineer, voltage transformers) of ACTOM High Voltage Equipment stand next to a compact 132 kV voltage transformer, which is substantially smaller than the conventional units around it, as the picture shows.

ACTOM High Voltage Equipment's (HVE) first contract for the manufacture and supply of compact 132 kV voltage transformers (VTs) was awarded to it recently by leading infrastructure company Consolidated Power Projects (CONCO) for supply to Tshwane Metropolitan Municipality.

HVE developed the new competitively priced and efficient compact VT in-house and introduced it into the local market in 2015. The new product is 35 to 40% smaller than the conventional unit and is accordingly about 15% lower in price.

The compact VTs are available with standard porcelain insulators or glass-core and silicon composite insulators – the latter being pollution-resistant and less subject to damage than the conventional product.

The contract to HVE, awarded by CONCO early this year, is for the manufacture and supply of 12 compact VTs fitted with porcelain insulators. The VTs form part of a range of HV equipment that Tshwane Municipality ordered under a three-year frame contract, awarded to CONCO last year.

"It was fortunate for us that we completed development and testing of the compact VT when we did as it comfortably comes in at the right price as quoted by CONCO to Tshwane Municipality on their frame contract. We couldn't have accepted the order for our traditional VTs at that price," says Nick de Beer, HVE's product manager, Instrument Transformers.

Enquiries: +27 11 820 5369