

Guidelines for sobriety control

I. Sobriety control

§ 1

General rules regarding the application of sobriety control

1. Sobriety control shall be introduced for employees referred to in § 2(1), carried out in accordance with the rules set out in this Appendix (sobriety control). The provisions of this section concerning sobriety control shall apply to persons referred to in § 2(2), respectively.
2. The person being controlled shall be obliged to undergo the sobriety control referred to in this section and to cooperate with the employer and persons authorised by the employer in order to ensure that the control is carried out correctly.
3. The introduction of sobriety control within the scope provided for in these Work Rules and Regulations shall be necessary to ensure the protection of the life and health of employees and other persons, as well as to ensure the protection of property.
4. The sobriety control must not violate the dignity or other personal rights of the persons being controlled.
5. A sobriety test shall consist of determining the absence of alcohol in the body of the person being controlled or the presence of alcohol indicating a state of alcohol consumption or intoxication within the meaning of Article 46(2) or (3) of the Act of 26 October 1982 on upbringing in sobriety and counteracting alcoholism (i.e. Journal of Laws of 2023, item 165).

§ 2

Groups of employees and other persons subject to sobriety control

1. Due to the scale of risks to life, health and property, including critical infrastructure, all groups of employees and temporary workers are subject to sobriety control.
Sobriety control shall also apply to individuals performing work on the employer's premises under a B2B contract or any other civil law contract, as well as on the basis of an employment relationship or on another basis for entities and persons cooperating with the employer or providing services or deliveries to the employer.

§ 3

Methods of conducting sobriety controls

1. Sobriety tests shall be conducted using methods that do not require laboratory testing, with a device that has a valid document confirming its calibration or standardisation.
2. Sobriety control shall involve testing exhaled air.
3. The breath test shall be performed using an electronic device that measures the alcohol concentration in exhaled air, with or without a mouthpiece, if the device manufacturer provides for such use, by infrared spectrometry or electrochemical oxidation (each of the above devices is hereinafter referred to as the "breath analyser").

§ 4

Types of devices used for sobriety control

The employer shall use the following devices for the sobriety control:

- 1) breath analysers installed in gates located in designated areas on the premises of the workplace, i.e. at the main gate of the workplace,
- 2) hand-held breath analysers that allow measurements to be taken with or without a mouthpiece, which are provided to persons authorised to conduct the test.

§ 5

Method of conducting sobriety controls

1. Exhaled air testing shall be carried out, depending on the decision of the employer or any person authorised by it to carry out such tests (each of these persons hereinafter referred to as the “authorised person”), in one of the following manners:
 - 1) by using an exhalation analyser installed in designated gates,
 - 2) by using a hand-held exhalation analyser operated by an authorised person,
 - 3) in the case of remote work:
 - a. in person by an authorised person at the place of remote work, where the test shall be carried out in a secluded place, taking into account the privacy of the employee and their household members, e.g. in the hallway,
 - b. independently by the person being tested using a breath analyser provided by the employer, at the request of an authorised person, where the test shall be carried out via real-time video transmission and the person shall be tested taking the measurement in a manner that ensures a correct test result and showing the result to the authorised person on camera.
2. In the case referred to in section 1(1), after being informed of the need to undergo the test, the person being tested shall be required to use the breath analyser installed in the gate in accordance with the instructions provided on it when passing through the gate. This test shall be carried out in a public place, but other persons not participating in the test shall be required to maintain a designated distance from the gate.
3. In the case referred to in section 1(2), after being informed of the need to undergo the test, the person shall be obliged to use the breathalyser made available to him/her in accordance with the relevant instructions and under the supervision of the authorised person. The authorised person shall be obliged to familiarise the person being tested with the use of the breathalyser. The test shall be carried out discreetly, as far as possible. The person being tested may request that the test be conducted in the presence of a third party designated by him/her, subject to the availability of that person at the time of the test.
4. The sobriety test shall be conducted in a manner that takes into account the requirements arising from the provisions issued on the basis of Article 221^g of the Labour Code.
5. The employer shall document and store the results of the sobriety control in accordance with the relevant regulations in force in this regard.

§ 6

Conditions for conducting sobriety controls

1. The mouthpiece must be replaced each time before a measurement is taken. The mouthpiece packaging must be opened in the presence of the person being tested. Exhaled air test may be carried out without a mouthpiece if the manufacturer of the breathalyser provides for such use.
2. Breathalyser tests shall not be carried out within 15 minutes of finishing the consumption of alcohol, smoking tobacco products, including novel tobacco products, smoking electronic cigarettes or using smokeless tobacco products, or taking medication or other products that may affect the test result.
3. Before undergoing a sobriety control, the person being tested shall be required to inform the tester of any temporary inability to perform the test due to the circumstances referred to in section 2. In the absence of such notification, it shall be assumed that the circumstances referred to in section 2 do not apply to the person being tested.
4. Persons subject to control should, as far as possible, refrain from the activities referred to in section 2 for at least 15 minutes before arriving at the workplace in order to ensure the accuracy of the test.
5. Tests for alcohol content in the body referred to in § 5(1)(2) shall be carried out only by persons authorised by the employer to carry out such tests. The person being controlled has the right to request a copy of the authorisation before the control is carried out.

6. The person being controlled and the person conducting the control are required to strictly follow the operating instructions for the device used for the control. If the instructions are not followed, the control must be repeated correctly.

§ 7

Time and frequency of sobriety controls

Sobriety controls shall be carried out: before starting work and up to twice during work, every day, with selective (only some of the people covered by the control) and rotational controls possible.

§ 8

Conducting sobriety control on suspicion

In the event of conducting a sobriety control due to reasonable suspicion that an employee has reported for work under the influence of alcohol or in a state of intoxication, or has consumed alcohol during working hours, the rules set out in § 3–6 shall apply accordingly.

I. Control for the presence of substances with effects similar to alcohol

§ 1

General rules for control for the presence of substances with effects similar to alcohol

1. Employees referred to in § 2(1) shall be controlled for the presence of substances with effects similar to alcohol in their bodies in accordance with the rules set out in this Appendix (control for the presence of substances with effects similar to alcohol). The provisions of this section concerning control for the presence of substances with effects similar to alcohol shall apply to persons referred to in § 2(2), respectively.
2. The person being controlled shall be obliged to undergo the control for the presence of substances with effects similar to alcohol referred to in this section and to cooperate with the employer and persons authorised by the employer in order to ensure that the control is carried out correctly.
3. The introduction of control for the presence of substances with effects similar to alcohol within the scope provided for in these Work Rules and Regulations shall be necessary to ensure the protection of the life and health of employees and other persons, as well as to ensure the protection of property.
4. The control for the presence of substances with effects similar to alcohol must not violate the dignity or other personal rights of the persons being controlled.
5. The control for the presence of substances with effects similar to alcohol consists in confirming the absence of these substances in the body of the person being tested.
6. Substances that act similarly to alcohol include:
 - 1) opioids;
 - 2) amphetamine and its analogues;
 - 3) cocaine;
 - 4) cannabinoids;
 - 5) benzodiazepines.

§ 2

Groups of employees and other persons subject to control for the presence of substances similar to alcohol

1. Due to the scale of risks to life, health and property, including critical infrastructure, all groups of employees and temporary workers are subject to control for the presence of substances similar to alcohol.
2. Control for the presence of substances similar to alcohol shall also apply to individuals performing work on the employer's premises under a B2B contract or any other civil law contract, as well as on the basis of an employment relationship or on another basis for entities and persons cooperating with the

Employer or providing services or deliveries to the employer.

§ 3

Method of control for the presence of substances with effects similar to alcohol

Testing for the presence of substances with effects similar to alcohol is carried out using methods that do not require laboratory testing, by determining substances with effects similar to alcohol using immunological methods.

§ 4

Types of devices used for control for the presence of substances with effects similar to alcohol

To check the presence of substances similar to alcohol, the employer shall use a device for immunological detection of substances similar to alcohol.

§ 5

Method of control for the presence of substances with effects similar to alcohol

1. Testing for the presence of substances with effects similar to alcohol shall be carried out, depending on the decisions of the employer or any person authorised by it to carry out such tests (each of these persons hereinafter referred to as the “authorised person”), in one of the following manners:
 - 1) before entering the workplace – using the device referred to in § 4 operated by an authorised person,
 - 2) after entering the workplace – using the device referred to in § 4 operated by an authorised person.
2. The test consists of non-invasive collection of saliva samples and placing them in a device for immunological determination of substances similar to alcohol, in accordance with the operating instructions for that device.
3. In cases referred to in section 1(1) and (2), the person being controlled, after being informed of the need for the test to be carried out by an authorised person, shall accompany that person to the place designated by him/her and shall be obliged to use the device referred to in § 4 in accordance with the relevant instructions and under the supervision of the authorised person. The authorised person shall be obliged to familiarise the person being tested with the method of using the device referred to in § 4. The examination should be conducted discreetly, if possible. The person being tested may request that the test be conducted in the presence of a third party designated by him/her, subject to the availability of that person at the time of the test.
4. The control for the presence of substances with effects similar to alcohol shall be conducted in a manner that takes into account the requirements arising from the provisions issued on the basis of Article 22¹⁸ of the Labour Code.
5. The employer shall document and store the results of the control for the presence of substances with effects similar to alcohol in accordance with the relevant regulations in force in this regard.

§ 6

Conditions of control for the presence of substances with effects similar to alcohol

1. No substances other than those contained in the kit for the immunological determination of alcohol-like substances may be added to the samples referred to in § 5(2).
2. Tests for the presence of substances with effects similar to alcohol in the body shall be carried out only by authorised persons. The person being controlled has the right to request a copy of the authorisation before the control is carried out.
3. The person being controlled and the person conducting the control are required to strictly follow the operating instructions for the device used for the control. If the instructions are not followed, the control must be repeated correctly.

§ 7

Time and frequency of carrying out control for the presence of substances with effects similar to alcohol

Controls for the presence of substances with effects similar to alcohol shall be carried out: before starting work and up to twice during work, every day, with selective (only some of the people covered by the control) and rotational controls possible.

§ 8

Conducting control for the presence of substances with effects similar to alcohol on suspicion

In the event of conducting a control for the presence of substances with effects similar to alcohol due to reasonable suspicion that an employee has reported for work under the influence of such a substance or has consumed such a substance during working hours, the rules set out in § 3–6 shall apply accordingly.

II. Preventing access to work

§ 1

1. If a sobriety control reveals the presence of alcohol in an employee's body indicating a state of alcohol consumption or intoxication, or a state where the presence of alcohol in exhaled air is below the levels considered to indicate alcohol consumption, but above zero, or there is reasonable suspicion that the employee has come to work in a state of alcohol consumption or intoxication or has consumed alcohol during working hours, the employer shall not allow the employee to work.
2. If the control for substances with effects similar to alcohol reveals the presence of such a substance in the employee's body, or if there is reasonable suspicion that the employee has come to work under the influence of such a substance or has consumed such a substance during working hours, the employer shall not allow the employee to work.

§ 2

Information regarding the grounds for not allowing an employee to work shall be communicated to the employee.

§ 3

At the request of the employer or an employee who has been refused entry to work, a test of the employee's sobriety or a test for the presence of a substance similar to alcohol in the employee's body shall be carried out by an authorised body appointed to protect public order, in accordance with the provisions of the Labour Code.

§ 4

Each employee shall be obliged to:

- 1) prevent persons whose condition indicates consumption of alcohol or substances similar to alcohol from being allowed to work or provide services for the employer,
- 2) immediately report to their immediate superior or authorised person any fact or suspicion of consumption on the employer's premises by an employee or other person cooperating with the employer or providing services to the employer or making deliveries to the employer, of alcohol or substances with effects similar to alcohol,
- 3) immediately report to an authorised person any fact or suspicion that an employee or other person cooperating with the employer or providing services to the employer or making deliveries to the employer is on the employer's premises in a state of intoxication after consuming alcohol or substances with effects similar to alcohol.

§ 5

§ 1 – 4 shall apply to temporary workers, accordingly.