

SECTION 9

OCCUPATIONAL HEALTH & SAFETY

9.08 DRUG, ALCOHOL AND MEDICATION POLICY

AUTHORITY: OCCUPATIONAL HEALTH AND SAFETY SECTION
PUBLIC SERVICE COMMISSION

ADMINISTRATION: PUBLIC SERVICE COMMISSION

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1. POLICY

- 1.01 The Government of Prince Edward Island, as the Employer, is committed to providing all Employees with a safe, healthy, and productive work environment.
- 1.02 All Employees are expected to report to perform their assigned duties safely and acceptably without any limitations due to the inappropriate use or after-effects of use of alcohol, drugs, or medications (whether prescribed, non-prescribed or over the counter), including cannabis, as reporting to work while impaired or not Fit for Work can pose a serious health and safety risk to Employees, the public and other persons in the workplace.
- 1.03 The Employer has adopted this Drug, Alcohol, and Medication Policy (the "Policy") because it recognizes that reporting for work while not Fit for Work is not acceptable or appropriate. This Policy communicates the Employer's expectations and guidelines surrounding the use, misuse, and abuse of drugs, alcohol or medications. This Policy also communicates the Employer's expectations and guidelines surrounding the use of medications that may cause impairment and have the potential to pose a health and safety risk to persons in the workplace.

2. APPLICATION

- 2.01 This Policy applies to any employee who performs work in any Civil Service workplace. Where applicable, the policy also applies to volunteers, students, interns, contractors, fee for service individuals and clients. The Policy applies to any of the aforementioned persons while they are:
- (a) engaged in work for the Employer whether on Employer property, at an Employer's workplace, or any other location where the Employee may be assigned to perform work for the Employer; and
 - (b) operating any vehicle, motorized equipment or machinery in the course of their employment or in the course of providing services for the Employer.
- 2.02 This Policy may apply to an Employee during their personal time and/or while off duty; if they are on the Employer's premises; operating an Employer's vehicle, motorized equipment, or machinery; or otherwise engaging the legitimate interests of the Employer.

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2.03 Because of the greater risk involved in working in a Safety-Sensitive Position, the Employer reserves the right to subject Employees in Safety-Sensitive Positions to testing for drugs, alcohol and medication as outlined in this Policy.

3. PURPOSE AND SCOPE

3.01 The Purpose of this Policy is to:

- (a) Promote, establish and maintain a healthy, safe and productive work environment;
- (b) Ensure that all Employees report to work in a condition that is Fit for work and in which they are able to carry out their duties without being a health and safety risk to themselves or to others; and
- (c) Encourage Employees to seek assistance to address any known or suspected drug, alcohol or medication abuse or dependency issues, or substance use disorder.

3.02 This Policy is established by the Employer to set out expectations and clear guidelines for appropriate behaviour in accordance with this Policy and to provide the consequences for non-compliance.

3.03 Employees who have a known or emerging drug, alcohol or medication abuse or dependency issue or substance use disorder are encouraged to access assistance through the Employee Assistance Program (EAP), a primary care provider, or appropriate community services before their job performance is affected or violations of this Policy occur.

3.04 Employees who suspect or recognize a substance use disorder or emerging problem in others shall seek advice from their manager or supervisor before workplace or personal safety is compromised or a violation of this Policy occurs.

3.05 Employees are required to report unsafe acts and illegal activities to their manager or supervisor.

3.06 This Policy also prohibits Employees from possessing drugs or alcohol in the Workplace, and prohibits Employees from unlawfully selling or

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dispensing drugs, alcohol and/or medication in the Workplace.

- 3.07 Violation of this Policy is grounds for disciplinary action, up to and including, dismissal from employment.

4. DEFINITIONS

- 4.01 The following terms, where used in this Policy, shall have the meaning as assigned to them below:

“Alcohol” refers to beer, wine, distilled spirits, and other intoxicating beverages.

“Drug” or **“Drugs”** means a chemical substance that affects the processes of the mind or body, whether stimulating or depressing, and that can be habituating or addictive. For further clarity, where used in this Policy, drug refers to a substance used recreationally for its effects on the central nervous system or for non-medicinal purposes, and includes substances obtained lawfully or unlawfully, including cannabis and illicit drugs.

Illicit Drugs

Any drug or substance that is not legally obtained by the employee and whose use, sale, possession, purchase or transfer is restricted or prohibited by Canadian law. These may include but are not limited to: street drugs such as cocaine, heroin, hallucinogens, stimulants, and prescription drugs that have not been legally prescribed to the employee or are obtained through drug diversion.

Drug Diversion

The term includes any unaccountable loss, theft, use for unintended purposes, or tampering of a drug. For purposes of this policy, drug diversion is a medical and legal concept involving the transfer of any legally prescribed drug from the individual for whom it was prescribed to another person for any illicit use, including any deviation that removes a prescription drug from its intended path from the manufacturer to the intended patient.

“Employee” means all full time, part time, temporary, casual, and seasonal employees of the Civil Service (and any others as defined in the Civil Service Act).

“Employer” means the Government of Prince Edward Island (as defined in the Civil Service Act).

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“Fit for Work” or **“Fitness for Work”** Means an employee is able to perform the duties of their job with competence and in a safe and acceptable manner as compared to reasonable and/or established performance standards, and without any impairment or incapacity due to the use or after-effects of alcohol, drugs or medications. Fitness for Work shall be determined solely by the Employer, and Medical documentation may be required to validate an employee’s Fitness for Work.

“Impaired” or **“Impairment”**, when used in this Policy, includes being adversely affected or intoxicated by drugs, alcohol or medication.

“Incident” means any event, circumstance, condition or accident that caused or had the potential to cause injury to an Employee or any other person; or damage affecting the Employer’s reputation, its property, the public, and/or the environment. An Incident can include any near miss situation where there was a potential for injury or damage.

“Medication” or **“Medications”** means a chemical substance used for medical purposes to treat a disease, illness or injury. For the purpose of this Policy, medication includes both prescription and non-prescription medicines, including over the counter medications, that are lawfully, or unlawfully obtained and used for their intended purpose.

For greater clarity, this Policy applies to both the proper use of Medication for its intended purpose, and the misuse of Medication (e.g. using medication other than as prescribed or combining medication and alcohol against direction).

“Safety-Sensitive Position” means a position where an Employee’s impairment or incapacity, due to drug, alcohol or medication use, during the performance of their work has the potential to cause an Incident and/or could result in significant risk to the health, safety or security of an Employee, a member of the public, the environment, or damage to equipment or property. Whether a position is a Safety-Sensitive Position depends on the nature of the duties assigned to that position, the particulars of the workplace, and the position’s direct involvement in any high-risk activities or operations.

Examples of “Safety-Sensitive Positions” with the Employer include, but are not limited to, those positions that:

- provide direct client and/or clinical care and support
- are required to operate or handle firearms/ammunition
- are required to operate motorized equipment, machinery and/or a

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motor vehicle in relation to their employment, or as a regular function of their position

- work in close proximity to motor vehicles or heavy equipment and/or construction sites
- work with vulnerable or violent clients
- are assigned the duty of medical or emergency first responder
- are required to evaluate security and/or risk for client or public safety

This definition also applies to all Employees who are required to rotate through or regularly relieve in Safety-Sensitive Positions, and to Supervisors and Managers who directly supervise Employees in Safety-Sensitive Positions or who may perform the same duties or exercise the same responsibilities as Employees in Safety-Sensitive Positions.

Not all positions with the Employer are Safety-Sensitive Positions.

“Substance use disorder” means a condition in which the recurrent use of one or more substances, including drugs, alcohol and medication, causes clinically and/or functionally significant impairment. For greater clarity, when used in this Policy, substance use disorder means a drug, alcohol, and/or medication addiction, dependency or abuse problem.

“Workplace” or **“Worksite”** means all property owned and occupied by the Employer, and every location where the Employer maintains an office or facilities or otherwise assigns Employees to perform regular duties of their position, including in-transit between one or more workplaces. Workplace may also include, but is not limited to; business travel, training sessions, conferences, work related gatherings, and the employee or client’s home (if deemed a worksite).

5. ROLES & RESPONSIBILITIES

5.01 Fitness for Work.

Fitness for work is a requirement of all Employees (including directors, managers and supervisors) during the performance of their duties for the Employer, and during the time they are at work and/or in the workplace. Fitness for work is also a requirement at times when Employees are on scheduled stand-by or on-call, or otherwise anticipate being called back to work.

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Employees are prohibited from reporting to work while impaired or incapacitated by drugs, alcohol or medication.

5.02 Employee Responsibilities. All Employees are responsible for:

- (a) Reading, understanding and complying with the standards and responsibilities outlined in this Policy;
- (b) Reporting to work and any workplace, Fit for Work, and remaining Fit for Work at all times while at work and/or in the workplace;
- (c) Performing their job in a safe and appropriate manner and taking responsibility to ensure their own safety and the safety of the public, clients and others in the workplace;
- (d) Being compliant with this Policy when on scheduled stand-by and if called into work outside of the regularly scheduled work hours;
- (e) Refusing unscheduled shifts if impaired or incapacitated by drugs, alcohol or medication;
- (f) Refraining from the use and possession of drugs or alcohol, and the distribution of drugs, alcohol or medication during their work shift and/or in the Workplace. This includes, refraining from the use of, or consumption of, alcohol or drugs during scheduled shift breaks;
- (g) Using medications (prescription and non-prescription) responsibly, being aware of any potential side effects of the medications, and notifying their manager or supervisor before starting work of any potentially unsafe side effects that could negatively impact safety or performance;
- (h) Reporting any known or suspected drug or alcohol use or abuse to their manager or supervisor; and cooperating with established treatment plan and drug testing if applicable.
- (i) Taking action, as appropriate, when they observe or suspect someone in the workplace has violated the Policy;
- (j) In the interest of safety, immediately notifying a supervisor or manager if they know or suspect another Employee, or other person in the workplace, is not Fit for Work or poses a safety risk

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for others in the workplace as a result of being impaired or incapacitated by drugs, alcohol or medication;

- (k) Reporting their involvement in any Incident as soon as possible, and participating fully in any subsequent investigation into the incident;
- (l) Cooperating with supervisors, managers and directors in the implementation of this Policy; and
- (m) Cooperating and participating fully with the Employer in relation to any investigation under this Policy.

5.03 Management Responsibilities. In addition to the responsibilities as an Employee, all directors, managers and supervisors are also responsible for:

- (a) Becoming fully informed of the provisions of this Policy, administering this Policy, and ensuring their staff (and where applicable volunteers, students, interns contractors & clients) are informed of the provisions of this Policy and whether or not their position has been deemed Safety-Sensitive.
- (b) Participating in training related to this Policy as may be required by the Employer from time to time;
- (c) Being knowledgeable about and being able to recognize the signs and symptoms of impairment and potential drug, alcohol or medication abuse problems, substance use disorders, or inappropriate use, in accordance with this Policy;
- (d) Offering guidance to any Employee who has questions in relation to this Policy;
- (e) Responding to and providing appropriate supports to any Employee who discloses a known, emerging or suspected substance use disorder in accordance with this Policy;
- (f) Where an Employee discloses potentially unsafe side effects of medication, assisting with any reasonable and necessary modifications to the Employee's job or duties;
- (g) Advising Human Resources if an Employee discloses a known or suspected substance use disorder;

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- (h) Responding to any reported or suspected violations of this Policy in a timely manner;
- (i) Immediately contacting Human Resources if an Employee is suspected of being not Fit for Work while in the Workplace or at the time of or following an Incident;
- (j) Where reasonable grounds exist, removing the Employee from the immediate worksite to a safe and private place and/or contacting the local policing authority as soon as possible;
- (k) Consulting with Human Resources in the investigation of any alleged violation of this Policy;
- (l) Maintaining appropriate documentation of files with regard to any instances of actual or suspected violations of this Policy and actions and interactions with Employees with regard to matters covered by this Policy; and
- (m) Making appropriate referrals (EAP) for employees who are identified with a substance or dependency issue, and supporting employees with their recommended treatment plan.

5.04 Safety-Sensitive Positions. In addition to the responsibilities set out in 5.2 and 5.3 (as applicable), all Employees working in safety-sensitive positions are also required to inform their manager or supervisor as soon as reasonably practical and, unless not reasonably possible, in advance of using medications, whenever they are taking any prescription or non-prescription medications that have the potential to cause impairment and/or pose a safety risk.

5.05 Loss of License/Impaired Driving. All Employees who are regularly or periodically required to operate any motor vehicle, heavy equipment, motorized equipment, or machinery on behalf of the Employer, whether owned by the Employee or Employer, must:

- immediately report to their manager or supervisor any suspension or revocation of their driver's license; and
- inform their manager or supervisor if they have been charged with an impaired driving offence.

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5.06 Employer Social Functions. The Employer recognizes that alcohol may be served in certain business settings or at certain Employer social events. In these circumstances, the responsible use of alcohol is permitted (reference *Part IX, Conduct of Employees, Section 31 (c) (d) of the Civil Service Act, Regulations*). At any function or event organized by the Employer at which alcohol will be served or consumed, it is the responsibility of the individual(s) organizing the event to ensure that all applicable permits and approvals have been obtained with respect to serving and consuming alcohol and that Employee safety is maintained.

6. PROCEDURES

Voluntary Disclosure

- 6.01 Employees who voluntarily disclose, to their immediate supervisor, a known or emerging substance use disorder, or any inappropriate drug, alcohol, and/or medication use which may lead to an Employee being impaired and/or not Fit for Work, prior to any Incident, will not be subject to disciplinary action in relation to such disclosure.
- 6.02 The Employer recognizes and acknowledges its duty to accommodate Employees with disabilities to the point of undue hardship. Where an Employee voluntarily discloses a disability, prior to any Incident, the Employer will make reasonable and practical efforts to accommodate the Employee up to the point of undue hardship.
- 6.03 Employees who suspect they have a substance use disorder, or an emerging substance use disorder, are encouraged to seek advice and treatment promptly, and are required to advise the Employer before job safety and/or job performance are affected, or any Incidents or violations of this Policy occur.
- 6.04 The Employer will make reasonable and practical efforts to assist an Employee who voluntarily discloses a known or emerging substance use disorder to seek appropriate treatment, access the Employee Assistance Program, and/or access the appropriate leave as provided for under the applicable collective agreement.
- 6.05 In accordance with sections 5.2(g) and 5.4, Employees who are directed by a physician to use a medication (prescription or non-prescription), or have self-prescribed medication (non-prescription or over the counter), that may cause impairment or adversely affect their job performance are required to disclose this information to the Employer, which will then be

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considered by the Employer in view of the Employee's duties and the safety and health of the workplace.

Reasonable Grounds

6.06 Reasonable grounds or reasonable suspicion that an Employee is not Fit for Work due to impairment or incapacity from the use of or after-effects of the use of alcohol, drugs or medications may be based on a number of observations or indications; including but not limited to:

- unexplained changes in behaviour;
- observed dizziness or drowsiness;
- confusion or disturbances in attention or concentration;
- slurred speech;
- observed impairment of motor skills;
- difficulty keeping eyes open or eyes tracking movements;
- marked reduction in reaction time in responding to questions, performing mental calculations or responding to stimuli; or
- an odour indicative of recent drug or alcohol use (e.g., cannabis or alcohol).

A breathalyser or other substance abuse test (e.g., blood, urine and saliva tests) is not required in order for the Employer to determine that an Employee is not Fit for Work.

6.07 In all situations, whether an Incident has occurred or not, where a manager or supervisor believes there are reasonable grounds to believe an Employee is not Fit for Work, the manager or supervisor shall:

- Consult with their Human Resource Manager and if possible, seek another manager or supervisor's opinion to confirm that there are grounds to believe that the Employee is not fit for work;
- Remove the Employee from the immediate worksite to a safe and private place and refer the Employee for medical attention, if there appears to be an immediate medical concern;
- Consult privately with the Employee to inquire into the observed behaviours or conduct that gave rise to the belief that the Employee was not Fit for Work, and provide the Employee with a full opportunity to explain, including the opportunity to respond to whether they are impaired or incapacitated from the use of any alcohol, drugs, or medications;

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- Where applicable advise the Employee of their right to union representation;
- Make a determination as to whether the Employee's explanation is reasonable in the circumstances, and/or whether the Employer continues to believe the Employee is impaired or incapacitated from the use of any alcohol, drugs, or medications and therefore not Fit for Work;
- Take appropriate action to address the situation based on the determination made in accordance with section (e) above; and
- Document observations and actions taken as soon as possible (i.e. at the time of observation or directly following) on an Incident Report form (Appendix A) and submit it to their Human Resource Manager.

6.08 If after speaking with the Employee, the Employer continues to believe the Employee is not Fit for Work, the Employer may:

- Refer the Employee for medical attention if there appears to be an immediate medical concern;
- If the Employee occupies a safety-sensitive position, consult with Human Resources;
- Arrange for the Employee's transportation home and advise the Employee that the police will be notified if the Employee refuses the arranged transportation and attempts to drive a vehicle; and/or
- Place the Employee on administrative leave with pay, or temporarily reassign the Employee to other duties, pending completion of an investigation.

6.09 Once the immediate situation is attended to and any safety concerns addressed, the Employer will commence an investigation into the situation in order to determine whether this Policy was violated and/or whether disciplinary action is warranted, or some other course of action is appropriate.

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Post-Incident Testing – Employees in Safety-Sensitive Positions

- 6.10 Following an Incident, alcohol and/or drug testing may be required of any Employee involved in the Incident who occupies a safety-sensitive position as part of a full investigation into the circumstances that led to the Incident.

Return to Work

- 6.11 The Employer will make reasonable and practical efforts to support an Employee in safely returning to work following any absence from the workplace due to alcohol, drug or medication use.
- 6.12 The Employer may require health assessments or testing to confirm that an Employee is able to safely return to work, and to identify any limitations/restrictions that may require temporary modification of their duties or accommodation under Human Rights legislation, or as part of a comprehensive monitoring program which makes such testing or assessment a condition of continued employment where the Employee:
- has undergone treatment for a known or emerging substance use disorder; or
 - has violated this Policy.
- 6.13 Any decision to conduct testing as part of an Employee's return to work in a Safety-Sensitive Position, will be determined on a case by case basis. The decision will take into account the Employee's privacy rights and the Employer's obligation to ensure a safe and healthy work environment.

Confidentiality

- 6.14 Any test results or other health assessment information disclosed to the Employer shall be treated as strictly confidential, except where limited disclosure is necessary for related health and safety concerns (e.g. potential risks to self, others, the Employer and if the matter proceeds to discipline or arbitration).

7. Policy Violations & Consequences

- 7.01 In keeping with the Employer's commitment to a safe and healthy work environment, any Employee who violates this Policy will be subject to

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disciplinary action, as appropriate, up to and including termination of their employment.

7.02 The following is a non-exhaustive list of policy violations that may be subject to disciplinary action:

- Attending work in a condition that is not Fit for Work;
- Consuming alcohol or drugs during work hours;
- Being not Fit for Work while on standby or on-call;
- Failing to report an Incident in a timely manner, or at all;
- Failing to report the suspension or revocation of one's driver's license or charge of an impaired driving offence;
- Attempting to delay testing, or refusing to submit to testing for impairment;
- Failing to meet safety and performance standards as a result of impairment from alcohol, drugs or medications; and
- Possessing drugs or alcohol in the Workplace, or unlawfully selling or dispensing drugs, alcohol and/or medication in the Workplace.

7.03 Notwithstanding the above, where an Employee is involved in an Incident and it is determined that they were not Fit for Work at the time of the Incident and failed to notify the Employer that they are not Fit for Work prior to the Incident, an Employee may be terminated, unless termination would be unjust in all of the circumstances.

7.04 Contractors who violate this Policy may be prevented from working on Employer property or from performing any work for the Employer.

8. References

Related Documents

Appendices

Appendix A - Accident/Incident Report Form

Appendix B - Cannabis and Your Workplace – Frequently Asked Questions

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9. Resources

- 9.01 The Employer strongly encourages employees to seek assistance to address any known or suspected drug or alcohol dependency issues. Employees are encouraged to access assistance through the Employee Assistance Program (“EAP”), their personal physician, or appropriate community services.



Accident/Incident Report

Department	Division
Location	Name of person making this report
Supervisor	Date/Time of accident/incident
Location of the accident/incident	Date/Time reported to employer
Name of person injured	Occupation
Was medical treatment received? <input type="checkbox"/> Yes <input type="checkbox"/> No	Will there be time lost from work? <input type="checkbox"/> Yes <input type="checkbox"/> No
Part of the body injured	Nature of injury (i.e. sprain)
Was this a recurrence ? <input type="checkbox"/> Yes <input type="checkbox"/> No	Were WCB forms filed? <input type="checkbox"/> Yes <input type="checkbox"/> No

Describe clearly **how** the accident/incident occurred.

Describe clearly accident/incident **causes**.
Conditions (human; physical; mechanical; environmental etc.):

Other factors (weather; training etc.):

Employee Signature	Date
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To Be Completed by Supervisor

What **action** has or will be taken to prevent a recurrence?

Additional notes:

Supervisor Signature	Date
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CANNABIS AND YOUR WORKPLACE

FREQUENTLY ASKED QUESTIONS

With the announcement that Canadians will be able to legally use *cannabis* beginning *October 17, 2018*, the following ***Frequently Asked Questions*** may assist employees in determining what this means for *their workplace*.

DOES THE LEGALIZATION OF CANNABIS MEAN THAT WORKERS CAN SMOKE (OR OTHERWISE CONSUME IT) AT WORK?

No, once non-medical cannabis is legal in Canada, people in PEI will be allowed to consume, smoke or otherwise use it in private homes or yards. Its use is not permitted in any Provincial Civil Service workplace. ***Employees cannot consume recreational cannabis at the workplace.***

CAN AN EMPLOYER HAVE RULES OR PENALTIES AGAINST HAVING CANNABIS AT WORK OR DURING WORK HOURS?

Yes. Just as an employer can have rules against employees having alcohol or non-prescription drugs at the workplace, the employer can also prohibit the possession of non-medical cannabis on employer property, in employer vehicles, or at employer's client premises while on work time. Once legalized, the penalties for breaking these rules will be the same for cannabis as for any of the other drugs or alcohol that are similarly prohibited.

WHAT IF AN EMPLOYEE HAS MEDICAL AUTHORIZATION FOR CANNABIS?

Medical-use cannabis is regulated federally through the Access to Cannabis for Medical Purposes Regulations. Accordingly, the federal and provincial recreational cannabis legislation will not apply to medical use cannabis.

Cannabis will be addressed in the same manner as prescribed medications that may impair a person's thinking, reaction times, or otherwise degrade their ability to work safely: if an employee indicates that they have medical authorization for cannabis, the employer needs to (and has a right to) engage in a conversation with the employee and get answers from the employee's health care provider regarding:

- the purpose of the medication (is it related to a health issue that would be considered a disability? If so, this triggers a duty on the employer to explore accommodations)
- the timing of dosages (the prescription might only be intended for pre-bedtime dosing and therefore not impact work time) and
- the impact of medication on a person's ability to function safely, effectively and efficiently

The law does not require employers to tolerate/accept any kind of drug use that puts the lives of others at risk. However, in accordance with the Human Rights Act and Collective Agreement, the Provincial Civil Service recognizes and acknowledges its Duty To Accommodate employees with a disability to the point of undue hardship. When an employee voluntarily

discloses a disability prior to an incident, the employer will make reasonable and practical efforts to accommodate the employee up to the point of undue hardship. An incident may include an event, circumstance, condition or accident that caused or had the potential to cause injury to and/or significant risk to the health, safety or security of an employee, customer, or other person; or damage affecting the Employer's reputation, property, the public and/or the environment.

CAN EMPLOYEES COME TO WORK WHILE THEY ARE IMPAIRED BY CANNABIS (OR CAN THEY SMOKE IT/INGEST OFF-SITE WHILE ON THEIR LUNCH BREAK?)

No. Employers have the right to require employees to come to work mentally and physically capable of performing their work safely, efficiently, and to the standard of quality required of the Employer's workforce. Coming to work under the influence of cannabis can be dealt with in the same manner as employees coming to work under the influence of alcohol or any other mind-altering drug. All employees are expected to report to perform their assigned duties safely and acceptably without any limitation due to the inappropriate use or after-effects of use of alcohol, drugs or medications (whether prescribed, non-prescribed or over the counter), including cannabis, as reporting to work while impaired or not "Fit for Work" can pose a serious health and safety risk to employees, the public and other persons in the workplace.



All employees are expected to take whatever steps are necessary to ensure that they report to work in a state where they are Fit and Safe for Work, and that they maintain that status throughout their work shift.

For additional information regarding responsible use, health risks and laws regarding cannabis, visit the Provincial Government's new public awareness campaign "Just the Facts" www.justthefactspei.ca