



## PRE – EMPLOYMENT DRUG TESTING

Pre employment drug testing has become necessary in the workplace especially, but not limited to, high income earners. It is done to determine whether the applicant is fit for employment.

It should be part of any Employer's criminal check list. So long as it is done consistently (on all potential employees without exception), it cannot be deemed as discriminatory. In other words:

With the individual's written **consent** (once consent is given there is no limitation of the employees rights and consequentially there can be no constitutional challenge and no infringement of the EEA);

With the **understanding that all results will be private and confidential** (an Employer is under no obligation to report individuals, who test positive for substance abuse, to the authorities); and

**All applicants** will be part of the same process.

Please note that in terms of the EEA, drug testing is separate to medical testing for a 'condition'. However, the same preconditions in the EEA should be applied to ensure that any and all testing is done within legal parameters.

These parameters were set out by Judge Pillay in the case of [PFG Building Glass \(Pty\) Ltd v Chemical Engineering Pulp Paper Wood & Allied Workers Union & Others](#).

Should you require any assistance, such as consent forms or drafting the above into policy then please do not hesitate to contact Moni Attorneys Incorporated on 011 706 0924