

19A. Breaches of s. 19(1)

- (1) If an employer contravenes section 19(1) in circumstances of gross negligence, the employer commits an offence and is liable to a level 4 penalty.
- (2) If —
 - (a) an employer —
 - (i) contravenes section 19(1); and
 - (ii) by the contravention causes the death of, or serious harm to, an employee;
 - and
 - (b) subsection (1) does not apply,the employer commits an offence and is liable to a level 3 penalty.
- (3) If —
 - (a) an employer contravenes section 19(1); and
 - (b) neither subsection (1) nor subsection (2) applies,the employer commits an offence and is liable to a level 2 penalty.
- (4) An employer charged with an offence under —
 - (a) subsection (1) may, instead of being convicted of that offence, be convicted of an offence under subsection (2) or (3); or
 - (b) subsection (2) may, instead of being convicted of that offence, be convicted of an offence under subsection (3).

[Section 19A inserted: No. 51 of 2004 s. 18.]

20. Duties of employees

- (1) An employee shall take reasonable care —
 - (a) to ensure his or her own safety and health at work; and
 - (b) to avoid adversely affecting the safety or health of any other person through any act or omission at work.

- (2) Without limiting the generality of subsection (1), an employee contravenes that subsection if the employee —
- (a) fails to comply, so far as the employee is reasonably able, with instructions given by the employee's employer for the safety or health of the employee or for the safety or health of other persons; or
 - (b) fails to use such protective clothing and equipment as is provided, or provided for, by his or her employer as mentioned in section 19(1)(d) in a manner in which he or she has been properly instructed to use it; or
 - (c) misuses or damages any equipment provided in the interests of safety or health; or
 - (d) fails to report forthwith to the employee's employer —
 - (i) any situation at the workplace that the employee has reason to believe could constitute a hazard to any person that the employee cannot correct; or
 - (ii) any injury or harm to health of which he or she is aware that arises in the course of, or in connection with, his or her work.
- (3) An employee shall cooperate with the employee's employer in the carrying out by the employer of the obligations imposed on the employer under this Act.

[Section 20 inserted: No. 43 of 1987 s. 13; amended: No. 30 of 1995 s. 14 and 47; No. 51 of 2004 s. 19, 79, 102(1) and (2).]

20A. Breaches of s. 20(1) or (3)

- (1) If an employee contravenes section 20(1) or (3) in circumstances of gross negligence, the employee commits an offence and is liable —
- (a) for a first offence, to a fine of \$100 000; and
 - (b) for a subsequent offence, to a fine of \$120 000.
- (2) If—
- (a) an employee —