

Part III — General provisions relating to occupational safety and health

*[Heading inserted: No. 43 of 1987 s. 13; amended:
No. 30 of 1995 s. 47.]*

Division 1 — Preliminary

[Heading inserted: No. 51 of 2004 s. 16.]

18A. Meaning of gross negligence in relation to certain breaches of this Part

- (1) This section applies to a contravention of section 19(1), 20(1) or (3), 21(1) or (2), 21B(2), 22(1), 23(1), (2), (3) or (3a), 23A or 23G(2).
- (2) A contravention of a provision mentioned in subsection (1) is committed in circumstances of gross negligence if —
 - (a) the offender —
 - (i) knew that the contravention would be likely to cause the death of, or serious harm to, a person to whom a duty is owed under that provision; but
 - (ii) acted or failed to act in disregard of that likelihood;
 - and
 - (b) the contravention did in fact cause the death of, or serious harm to, such a person.

[Section 18A inserted: No. 51 of 2004 s. 16.]

Division 2 — General workplace duties

[Heading inserted: No. 51 of 2004 s. 4.]

19. Duties of employers

- (1) An employer shall, so far as is practicable, provide and maintain a working environment in which the employees of the employer

(the *employees*) are not exposed to hazards and in particular, but without limiting the generality of the foregoing, an employer shall —

- (a) provide and maintain workplaces, plant, and systems of work such that, so far as is practicable, the employees are not exposed to hazards; and
 - (b) provide such information, instruction, and training to, and supervision of, the employees as is necessary to enable them to perform their work in such a manner that they are not exposed to hazards; and
 - (c) consult and cooperate with safety and health representatives, if any, and other employees at the workplace, regarding occupational safety and health at the workplace; and
 - (d) where it is not practicable to avoid the presence of hazards at the workplace, provide the employees with, or otherwise provide for the employees to have, such adequate personal protective clothing and equipment as is practicable to protect them against those hazards, without any cost to the employees; and
 - (e) make arrangements for ensuring, so far as is practicable, that —
 - (i) the use, cleaning, maintenance, transportation and disposal of plant; and
 - (ii) the use, handling, processing, storage, transportation and disposal of substances,at the workplace is carried out in a manner such that the employees are not exposed to hazards.
- (2) In determining the training required to be provided in accordance with subsection (1)(b) regard shall be had to the functions performed by employees and the capacities in which they are employed.

[Section 19 inserted: No. 43 of 1987 s. 13; amended: No. 30 of 1995 s. 13 and 47; No. 51 of 2004 s. 5, 17 and 78.]