

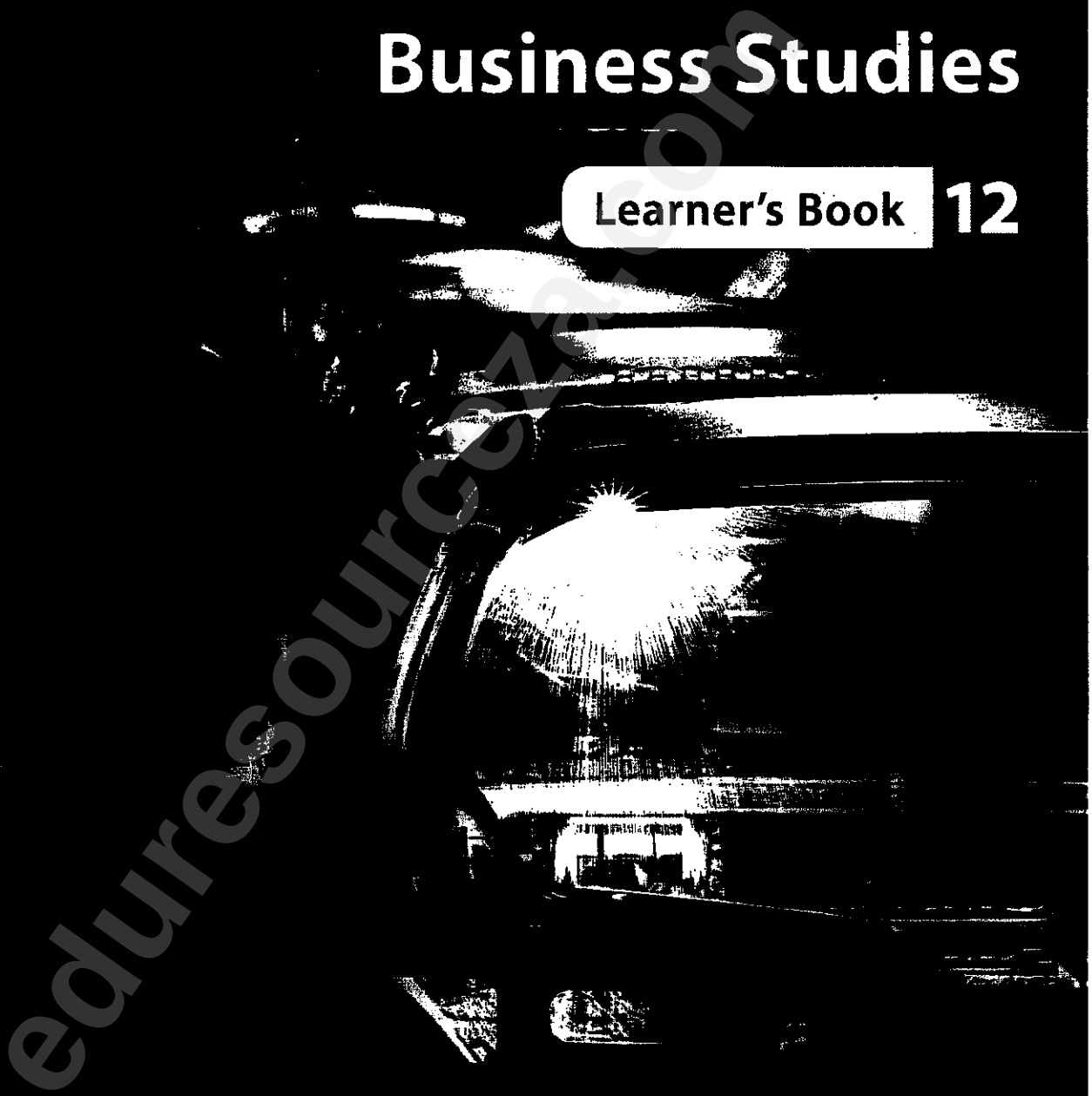


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Platinum

Business Studies

Learner's Book 12



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Platinum Business Studies Grade 12 Learner's Book

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Contents

Term 1

Chapter 1: Macro environment: impact of recent legislation on business 1

Unit 1	Skills Development Act No. 97 of 1998	2
Unit 2	Labour Relations Act No. 66 of 1995	9
Unit 3	Employment Equity Act No. 55 of 1998	14
Unit 4	Basic Conditions of Employment Act No. 75 of 1997	17
Unit 5	Compensation for Occupational Injuries and Diseases Act No. 61 of 1997	23
Unit 6	Black Economic Empowerment and Broad-Based Black Economic Empowerment Act No. 53 of 2003	27
Unit 7	National Credit Act No. 34 of 2005	31
Unit 8	Consumer Protection Act No. 68 of 2008	36
Summary of Chapter 1		38
Exam Practice		40

Chapter 2: Human Resources function 42

Unit 1	Analysis of Human Resources activities and procedures	43
Unit 2	Human Resources policies and legal requirements	50
Summary of Chapter 2		61
Exam Practice		62

Chapter 3: Professionalism and ethics 64

Unit 1	Professional and ethical business practice	65
Unit 2	Issues that could challenge professional and ethical behaviour	74
Summary of Chapter 3		83
Exam Practice		84

Chapter 4: Creative thinking 86

Unit 1	Acquiring advanced problem-solving skills	87
Unit 2	Application of creative thinking to solve complex business problems	96
Summary of Chapter 4		100
Exam Practice		101

Chapter 5: Macro-environment business strategies 103

Unit 1	Development of strategies in response to the challenges in business environments	104
Unit 2	Types of business strategies and strategic evaluation	115
Summary of Chapter 5		125
Exam Practice		126
Programme of Assessment: Assignment		128
Programme of Assessment: Controlled Test 1		129

Term 2

Chapter 6: Social responsibility and corporate citizenship/ Corporate Social Responsibility 132

Unit 1	The concept of social responsibility and its implications for both business and communities	133
Unit 2	Corporate Social Investment	141
Summary of Chapter 6		149
Exam Practice		150

Chapter 7: Human rights, inclusivity and environmental issues 152

Unit 1	Assess a business venture against criteria to measure human rights, inclusivity, and environmental issues	153
Summary of Chapter 7		165
Exam Practice		166

Chapter 8: Team performance assessment, conflict management and problem solving 167

Unit 1	Collaboration with others to contribute towards the achievement of specific objectives	168
Unit 2	Problem solving and the management of problems	178
Summary of Chapter 8		185
Exam Practice		186

Chapter 9: Business sectors and their environments 187

Unit 1 The three business environments related to the three economic sectors 188

Unit 2 The extent to which a business can control the three business environments 198

Summary of Chapter 9 202

Exam Practice 203

Chapter 10: Management and leadership 205

Unit 1 The difference between leadership and management 206

Unit 2 Leadership styles 211

Unit 3 Theories of management and leadership 215

Unit 4 The role of personal attitude in success and leadership 219

Summary of Chapter 10 221

Exam Practice 222

Chapter 11: Quality of performance 224

Unit 1 The concept of quality and its relation to the various business functions 225

Unit 2 The impact of quality on different business structures 233

Summary of Chapter 11 237

Exam Practice 238

Programme of Assessment: Presentation 239

Term 3

Chapter 12: Investment securities 243

Unit 1 Business investment opportunities 244

Summary of Chapter 12 257

Exam Practice 258

Chapter 13: Investment insurance 260

Unit 1 Compulsory and non-compulsory insurance 261

Summary of Chapter 13 270

Exam Practice 271

Chapter 14: Forms of ownership 273

Unit 1 Characteristics, advantages, disadvantages and comparison of forms of ownership 274

Unit 2 Forms of ownership and their impact on the success of a business 283

Summary of Chapter 14 291

Exam Practice 292

Chapter 15: Presentation and data response 295

Unit 1 Presentation of business information in verbal and non-verbal format 296

Unit 2 Responding to questions, handling feedback and identifying areas for improvement 306

Summary of Chapter 15 309

Exam Practice 310

Programme of Assessment: Project 312

Programme of Assessment: Controlled Test 2 316

Term 4

Chapter 16: Exam preparation 319

Unit 1 Study timetable 320

Unit 2 Study guidelines 325

Chapter 17: How to approach the exam 329

Unit 1 Structure of the final Grade 12 exam paper 330

Unit 2 Section A 336

Unit 3 Section B 340

Unit 4 Section C 344

Glossary 348

Index 355

1 Macro environment: impact of recent legislation on business

UNIT 1: Skills Development Act No. 97 of 1998

UNIT 2: Labour Relations Act No. 66 of 1995

UNIT 3: Employment Equity Act No. 55 of 1998

UNIT 4: Basic Conditions of Employment Act No. 75 of 1997

UNIT 5: Compensation for Occupational Injuries and Diseases Act No. 61 of 1997

UNIT 6: Black Economic Empowerment and Broad-Based Black Economic Empowerment Act No. 53 of 2003

UNIT 7: National Credit Act No. 34 of 2005

UNIT 8: Consumer Protection Act No. 68 of 2008

Skills Development Act No. 97 of 1998

KEY WORDS

Employment Equity Act – promotes employment equity and regulates affirmative action

redress – to put right a wrong or grievance

equity – fairness and justice

In Grade 10 and 11 you studied many of the Acts that are relevant in a business environment. Most of these Acts related to the macro environment, contemporary socio-economic issues, contracts and human resource issues. In Grade 12 these Acts are studied to see the impact of recent legislation, developed in response to the demands for redress and equity, on small and large business operations.

The focus in Grade 12 is on the nature of the Act, its purpose, the advantages and disadvantages, the rights of businesses and consumers, compliance and penalties if the business doesn't comply, and actions regarded as discriminatory as listed in the **Employment Equity Act (EEA)**.

1.1 Nature of the Skills Development Act (SDA)

The Skills Development Act no. 97 of 1998 (SDA) is one of the pieces of recent legislation which was developed in response to the demand for **redress** and **equity**. It has a strong impact on both small and large businesses.

The SDA came into being as a result of the impact of apartheid, i.e. poverty, high levels of unemployment and very little investment in developing the skills of the majority of the South African labour force. The serious lack of skills among the unemployed limited their chances of being employed at all, let alone in positions where a good income could be earned. Employment opportunities were therefore largely limited to those who had been fortunate enough to have some skills training.

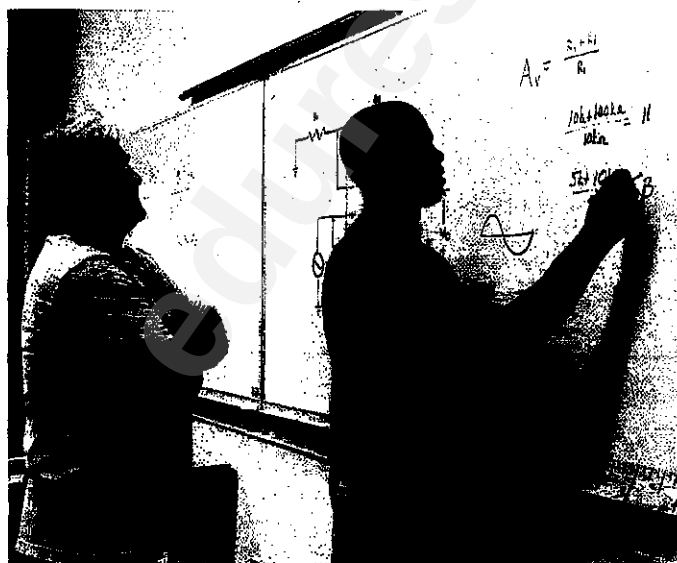
The SDA is an integral part of the National Skills Development Strategy that aims to link learning to the demands of the world of work, develop skills of existing workers and enable employers to become more productive and competitive.

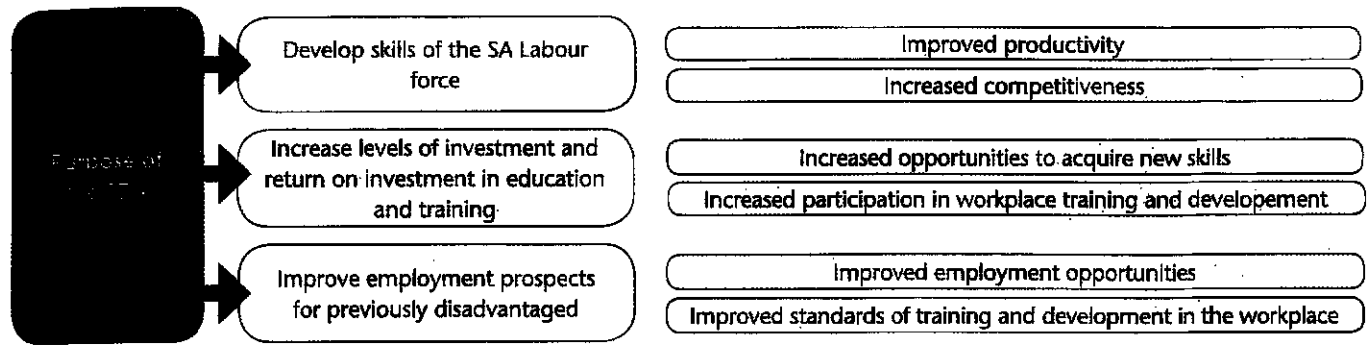
1.2 Purpose of the Skills Development Act

The purpose of the SDA is:

- to develop the skills of people in South Africa in order to improve productivity
- to get businesses to invest in education and training of workers
- to encourage businesses to improve the skills of their workers
- to improve the chances of getting a job for previously disadvantaged people
- to redress the disadvantages through education and training.

In line with the purpose of the SDA, the workplace must be viewed as an active learning environment in which skills can be acquired/gained through formal training programmes and practical experience.





1.3 The National Skills Development Strategy and Human Resources Development Strategy

The Skills Development Act creates a framework for skills improvement and provides for the implementation of strategies on a national, **sector** and workplace basis.

The National Qualifications Framework contains these strategies and provides for **learnerships**. Learnerships are theoretical and practical training opportunities that can lead to a recognised occupational qualification. The **NQF** lists all the possible levels of qualifications, e.g. NQF level 1.

The Act also provides for financing skills development through the **levy-grant** scheme and a **National Skills Fund**.

1.3.1 The National Skills Development Strategy

A comprehensive framework for skills improvement was drawn up as part of the National Skills Development Strategy. It provides for the participation of government, organised business and organised labour. It encourages good quality training in the workplace to ensure ongoing development of skills and also indicates how Sector Education and Training Authorities (SETAs) should use the money allocated from the **skills development levy**.

1.3.2. The National Skills Authority

Although it is Government that is primarily responsible for developing policy and deciding on strategies to follow, it requires information and informed input from both organised labour (**trade unions**) and organised business (**employer organisations**).

The role of the National Skills Authority (NSA) is to advise the Minister of Labour on the formulation of national strategy and policy and on the implementation and allocation of subsidies from the National Skills Fund.

Trade unions are represented on the National Skills Authority (NSA). They are able to give useful input to government on policy and strategy development in the skills development field. Since the trade unions are also involved at sector level (through

KEY WORDS

National Skills Development Strategy – a comprehensive framework for skills improvement that includes government, organised business and organised labour
sector – section of the economy in which businesses have related products or services
NQF – a framework that classifies the levels of occupational qualifications
learnerships – theoretical and practical training opportunities that can lead to a recognised occupational qualification
levy – a compulsory tax
National Skills Fund – money collected from skills development levy or other sources which funds national skills development strategy
skills development levy – a levy paid to the South African Revenue Services for the purpose of financing the skills development strategy
trade union – an association of workers in a trade or craft that aims to protect their interests
employer organisation – an association of employers that aims to protect their interests



the Sector Education and Training Authorities) and in the workplace, they are well positioned to report and offer advice on skills plans at those levels and on the extent to which the skills plans are being implemented.

Since the NSA is also expected to liaise with the SETAs and report to the Minister of Labour on the progress of implementation of skills plans in the workplace/sector, this association with organised business is very valuable.

At the workplace level, organised labour is concerned with skills plans for a specific workplace. Organised business is also involved in designing skills plans, and must see that they are carried out and report on progress.

KEY WORDS

Sector Education and Training Authority – a formally constituted organisation that provides and promotes the education and training needs of employers and employees within an economic sector
Skills Development Facilitator – the person appointed by a company to ensure that skills development takes place
remuneration – all taxable compensation (not only cash) for work done

1.3.4 Sector Education and Training Authorities (SETAs)

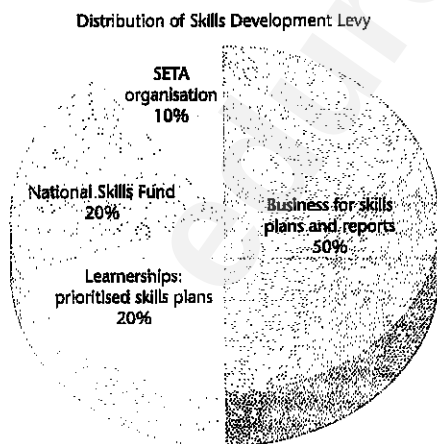
The training and skills development offered must be approved by the South African Qualifications Authority (SAQA) and be of good quality. To ensure this, the **Sector Education and Training Authorities (SETAs)** were established in March 2000.

- The SETAs represent all the economic sectors, for example, AgriSETA (agricultural sector); FOODBEV SETA (food and beverages); HWSETA (health and welfare); W&RSETA (wholesale and retail).
- The task of a SETA is to develop sector skills plans in line with the National Skills Development Strategy and approve workplace skills plans.
- SETAs must also pay out grants to companies in line with workplace skills plans and implementation reports.
- SETAs must promote and establish learnerships.

Every company must appoint a **Skills Development Facilitator (SDF)** who will oversee the skills development process in the company. The SDF must undergo training with the SETA where the company is registered and must be formally accredited as an SDF.

1.3.5 Skills Development Levy

The Skills Development Levy was introduced in 1999 to ensure that private companies also participate in and contribute to the development of skills in South Africa. Any business that has a payroll of more than R500 000 per annum has to pay 1% of that amount to the government. They can claim back a proportion of the levy paid, provided certain conditions are fulfilled. These are set out below.



- Every employer (with a payroll that exceeds R500 000 per annum) must pay a skills development levy (tax) of 1% of their employees' **remuneration** package. The levies are collected by the South African Revenue Services.
- The National Skills Fund receives 20% of the levy while 10% is used for the organisational expenses of the SETA to which the business is affiliated.

- Organised business is entitled to receive grants back from the SETA for producing **workplace skills plans** and **implementation reports** (50% of the levy paid). The SETAs are also responsible for implementing learnerships and other skills plans, which the Sector has indicated as priorities (20% of the levy paid).

KEY WORDS

workplace skills plans – plans and training opportunities that businesses put in place to upskill employees
implementation reports – reports that prove the content and level of training and the numbers of employees who participate
discrimination – treating people differently or unfairly because of their race, gender, nationality, disability or any other inherited or physical characteristic

Calculating the skills development levy

Step 1: add all of the employees' salaries together

e.g. Salary A + Salary B + Salary C = Total Salaries

Step 2: Divide the total salaries by 1%

i.e. Total Salaries/1%

The 1% is what employers must pay over as the skills development levy.

1.3.6 The National Qualifications Framework (NQF)

The NQF provides for a system of credits that learners receive when they complete learnerships.

- The NQF is designed so that people can choose, from various options, how they qualify for a career. They can take a number of different paths towards their chosen career. They can also carry training and experience over from one qualification to another.
- The NQF redresses past **discrimination** in education and employment opportunities. It gives people who have not had the benefit of much formal education the chance to obtain recognised qualifications.

The development and implementation of the NQF is overseen by the South African Qualifications Authority (SAQA).

The NQF consists of ten levels.

- Levels 5 – 10 relate to Higher Education, i.e. this refers to post-school qualifications.
- Levels 2 – 4 relate to the General Education and Training (GET) Band. A large number of institutions and organisations may provide education and training at this level.
- The normal school system accounts for much of the education and training that takes place at Levels 2 – 4. However, training certificates can also be obtained through colleges, such as technical and community colleges, police colleges, nursing colleges and private colleges.
- An alternative route to reaching Level 4 is through training courses offered by the SETAs, trade unions and workplace initiatives.

1.3.7 Learnerships

SETAs may establish learnerships provided that the course has a properly structured learning component (theory) and includes a practical work experience component. The course must lead to a qualification associated with a particular trade or

profession (for example, electrician, motor mechanic, teacher, social worker) and must be registered with SAQA.

Band	NQF levels	Old system	New school grades	ABET levels	Types of qualifications and certifications (new system)
Higher education and training	8-10	Doctorate			Doctorates Further research degrees
	7	Masters degree			Higher degrees Professional qualifications
	6	Honours degree			First degrees Higher diplomas
	5				Diplomas, occupational certificates
Further education and training	4		Grade 12		School/college/trade certificates
	3	Std 10 Std 9 Std 8 Std 7	Grade 11		School/college/trade certificates
	2	Std 6 Std 5 Std 4 Std 3 Std 2 Std 1	Grade 10		School/college/trade certificates
	1		Grade 9	Level 4	Senior phase
			Grade 7	Level 3	Intermediate phase
			Grade 5	Level 2	Foundation phase
			Grade 3	Level 1	Pre-school

The NQF structure of qualifications

ACTIVITY 1 EXPLAIN AND CALCULATE THE SKILLS DEVELOPMENT LEVIES



The employees of Star Enterprises earn the following salaries:

- six earn R75 000 per annum
- eight earn R 68 000 per annum
- four earn R 63 000 per annum

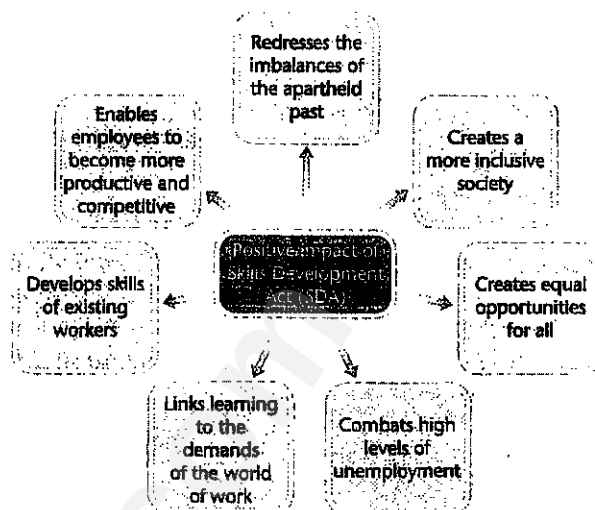
1. Explain what is meant by the Skills Development Levy. (2)
2. Explain what a SETA is and who the SETAs represent. (4)
3. 3.1 What amount would Star Enterprises have to pay to the South African Revenue Services annually? (2)
- 3.2 How much of the annual amount would be paid to the Skills Development Fund? (2)
- 3.3 Star Enterprises has submitted a skills development plan for the company. What amount would they expect to get back from the Fund? (2)

1.4 Advantages and disadvantages of the Skills Development Act

1.4.1 Advantages

The Skills Development Act has many advantages for South African businesses:

- skills development of the South African workforce
- improvement in the quality of life of workers
- improvement in work prospects and labour mobility
- improvement in productivity in the workplace
- increased global competitiveness
- promotion of self-employment and entrepreneurship
- improvement in the delivery of social services
- increased investment in education and training in the labour market
- improvement in the return on investment of education and training
- improved employment opportunities for new entrants who find it difficult to be employed and those who were previously disadvantaged
- encourages ongoing skills development, learning and the acquisition of new skills and work experience.



1.4.2 Disadvantages

There are many disadvantages (negative impacts) associated with the Skills Development Act (SDA):

- The SDA process is **bureaucratic** and requires a large amount of paperwork and administration. This can cost time, effort and money.
- Only companies with a staff payroll of over R500 000 per annum can claim the Skills Development Levy.
- It is monitored and controlled by government departments that do not have education and training as their key priority.
- The SETAs are not all well organised and many courses offered by companies do not have **unit standards** that relate to the course content.
- Many service providers that offer training services are not SAQA accredited.
- Many organisations do not support this government initiative.
- Laws and Acts such as these are very difficult to monitor and control.

KEY WORDS

bureaucratic – overly concerned with procedural correctness
unit standards – individual segments of a qualification; approved by SAQA

1.4.3 Rights of the business and employees

The SDA gives the right to workers who have had little or no formal education to acquire skills and training in the workplace to ensure greater participation in the economy, and the possibility of a better standard of living for individual workers. A formal qualification recognised on the NQF makes the employee more flexible within the job market and creates possibilities for upward mobility.

Business has the right to expect a better skilled workforce and higher productivity from employees.

KEY WORDS**legal** – to do with the law**1.4.4 Compliance and penalties if the business does not comply**

- Businesses are required to register with SARS in the area in which their business is classified (in terms of the SETAs).
- Certain businesses are exempt from paying levies, for example Public Benefit Organisations.
- Businesses that do not pay the prescribed rates are liable for penalties. A late penalty is usually calculated at 10% of the amount. A series of penalties could result in **legal** action.
- Companies who do not pay the Skills Development Levy may not offer learnerships or claim grants from the Skills Development Fund.
- Payments and penalties are monitored by SARS.
- A labour inspector could order the business to stop operating should the business be found guilty of illegal practices.

1.4.5 Actions regarded as discriminatory or fraudulent in terms of the SDA

Employees may not be denied appropriate skills development opportunities in the workplace based on race, gender or disability.

Employers may not:

- be seen to promote skills and development unfairly
- furnish false information in any prescribed documents
- provide employment services for gain without being registered as an employer
- conduct the business of a private employment services agency in contravention of the Skills Development Act.

ACTIVITY 2 EXPLAIN AND EVALUATE SKILLS DEVELOPMENT ISSUES

Read the statement below and answer the questions that follow.

The Skills Development Act was developed in response to the demands for redress and equity in South Africa.

1. What is the purpose of the National Skills Development Act? (2)
2. Use the table below to describe the impact that the aspects of the Skills Development Act could have on business employers and employees. (16)

	Impact on employers	Impact on employees
National Skills Authority		
Sector Education and Training Authorities (SETAs)		
Skill Development Levy		
Learnerships		

3. Discuss the National Qualifications Framework (NQF). (2)
4. Evaluate your level of education according to the NQF. (2)
5. Evaluate your teacher's level of education according to the NQF. (2)

Labour Relations Act No. 66 of 1995

1.5 Nature of the Labour Relations Act (LRA)

The **Labour Relations Act (LRA)** No. 66 of 1995 is another example of recent legislation developed in response to demands for redress and equity. It has a significant impact on small and large business operations.

All relationships are complex, but from a business point of view, this is more so because it involves:

- individuals and groups
- formal and informal (state, employers, employees, unions and others).

The parties involved in the labour relationship are primarily the employer and the employee. The state is also involved as it provides a legal framework within which the parties can conduct their relationship.

The LRA deals with, among other things, the hiring and firing procedures of a business, disciplinary processes, trade unions, negotiations, strikes and disputes.

Human Resources professionals or **line managers** can solve most conflicts that arise in the workplace. In such cases, a basic knowledge of the most important labour laws is usually sufficient. Legal **expertise** may need to be called in to assist with more complex problems.

Before 1994, labour legislation was made and implemented by the government only. The passing of the LRA of 1995 provided for agreement between organised labour, organised business and the state. 'Labour' usually means trade unions, which are organisations created by workers to protect their interests (such as better working conditions or remuneration) through **collective bargaining**.

Conflict in the workplace usually has a negative impact on production and results in the company operating below capacity. The LRA promotes the potential success of an organisation by providing a structure for sound labour relations and promoting fair labour practices.

The terms and conditions that apply to both employer, employee, those seeking employment and former employers and employees are outlined in the Labour Relations Act (LRA).

1.6 Purpose of the Labour Relations Act

The main purpose of the LRA of 1995 is to provide a framework for labour-related matters for employers, employees and trade unions.

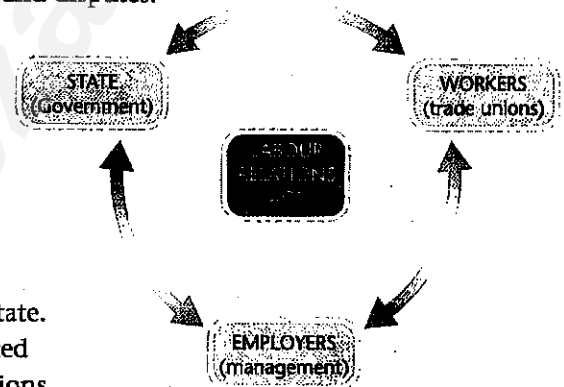
The LRA was introduced to promote simple procedures for the resolution of labour **disputes** and to promote and facilitate collective bargaining at the workplace and at **sectoral level**. The right to strike and the recourse to **lock-out** are also regulated by the Act.

KEY WORDS

Labour Relations Act (LRA) – promotes equity and democracy through implementation of employment equity and prevention of unfair discrimination

line managers – people who oversee a group of employees in a specific department of the business

expertise – specialised skills and knowledge



KEY WORDS

collective bargaining – the process whereby employers' associations and trade unions negotiate matters such as wages and conditions of employment on behalf of all in the industry

disputes – serious disagreements

sectoral level – level of the respective sectors of the economy in which the SETAs operate

lock-out – striking workers are denied access to the business premises while the labour dispute is being resolved

KEY WORDS

Codes of Good Practice – the framework and guidelines for ensuring fair processes in the workplace

The LRA has established two courts of law to deal specifically with labour disputes. The Labour Court may only hear and decide disputes provided for by the LRA. The Labour Appeal Court can hear and rule on appeals or final decisions of the Labour Court.

The LRA has simplified the registration of trade unions and employers' organisations. It provides regulations to ensure that these organisations act democratically and have proper financial controls.

The LRA therefore provides a framework for trade unions and employer associations to:

- conduct collective bargaining
- determine fair conditions of employment
- formulate industry policy
- participate in industry decision-making
- understand the consequences of their non-fulfilment of their obligations
- grow their understanding of what fair labour practice is.

Not all organisations are governed by the LRA. Some agencies of the state are excluded, such as the South African National Defence Force (SANDF), the National Intelligence Agency and the South African Secret Service.

1.7 Advantages and disadvantages of the Labour Relations Act

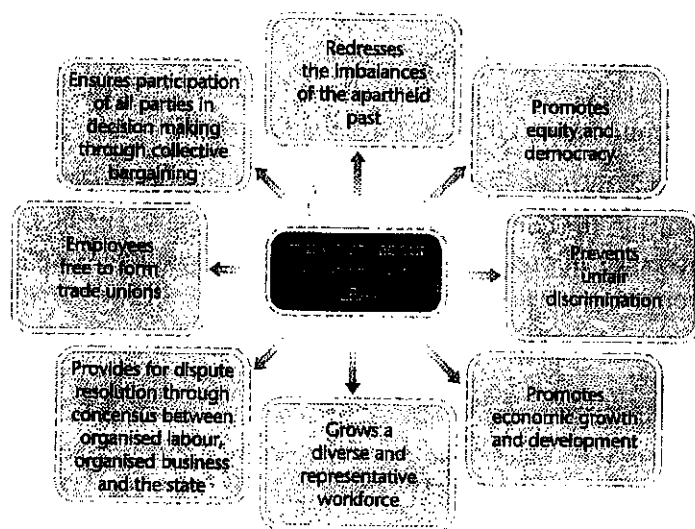
1.7.1 Advantages of the Labour Relations Act

The LRA secures benefits for both employers and employees through the scope of its involvement in workplace processes and procedures. For example, it promotes fair employment and dismissal

practices, and ensures workers are fairly treated by requiring implementation of the **Codes of Good Practice**.

The LRA has the following advantages for businesses:

- The LRA provides a framework for employers, trade unions and employees to undertake collective bargaining. The collective bargaining determines wages, terms and conditions of employment and other matters of mutual interest in a fair way.
- Forms a legal framework for all employers and employees.
- Promotes and recognises the rights and responsibilities of employees.
- Promotes and recognises the rights and responsibilities of employers and promotes fair labour practices.



- Recognises the rights and responsibilities of trade unions and thereby promotes orderly collective bargaining and effective resolution of labour disputes.
- Provides opportunities for and encourages workers to participate in decision-making.

1.7.2 Disadvantages of the Labour Relations Act

Although the LRA has many advantages, there are also many disadvantages (negative impacts):

- The LRA facilitates the establishment of trade unions and gives them negotiating power via collective bargaining. But some trade unions may not be primarily motivated by their members' interests.
- Many employees and employers do not understand or respect the Labour Relations Act.
- Labour disputes and bargaining council processes can become disruptive and time-consuming and can lead to a decrease in productivity in business.
- Many employees take advantage of the right to strike without acknowledging the responsibilities.

ACTIVITY 3 EXPLAIN AND INTERPRET THE LRA PROCESSES

1. Explain the purpose of the Labour Relations Act. (2)
2. Use the table below to summarise the advantages of the Labour Relations Act that will be beneficial to employers and the advantages that will be beneficial to employees.

Benefits to employers	Benefits to employees

(8 × 2)

1.8 Rights of the business and employees

1.8.1 Bargaining councils

Large parts of the LRA focus on collective bargaining. **Bargaining Councils** are introduced by the Act and are centralised at sectoral level.

One or more registered trade unions and one or more employers' organisations may form a bargaining council. The members will agree on the council's constitution and register the council.

In addition to concluding and enforcing collective agreements, Bargaining Councils have the task of preventing and resolving labour disputes when they arise. Other powers and functions include the promotion and establishment of training and education schemes and the establishment and administration of a fund to be used for resolving disputes.

KEY WORDS

Bargaining Council – a council consisting of one or more employers' organisations and trade unions which aims to prevent and resolve labour disputes

KEY WORDS

CCMA – the Commission for Conciliation, Mediation and Arbitration to which labour disputes can be referred
conciliation – getting two parties together to agree to a settlement of a dispute
mediation – effecting a friendly resolution to a dispute between two parties by acting as a link between them

arbitration – the parties are each given an opportunity to state their case separately. The arbitrator will then make a final and binding ruling or award

Labour Court – a court established to deal with labour disputes referred to it in terms of the LRA

Labour Appeal Court – a court that can rule on any questions arising from matters heard by the Labour Court

strike – partial or complete refusal to work

grievance – an employee's complaint regarding a real or imagined breach of the terms of the employment contract

picketing – the act of demonstrating outside a business to draw attention to grievances, or standing outside the business to prevent or dissuade other workers and/or customers from entering
essential services – services which the public cannot do without, such as the fire and ambulance services

1.8.2 The Commission for Conciliation, Mediation and Arbitration (CCMA)

When a dispute in the workplace cannot be resolved, the parties may refer it to the **CCMA** for **conciliation**, **mediation** or **arbitration**. Most of the work of the CCMA is concerned with unfair dismissal disputes.

The CCMA is not affiliated to the state or any political party, but works independently to attempt to resolve disputes referred to it in terms of the LRA. If a dispute cannot be resolved by conciliation or mediation, the CCMA will act as arbitrator.

If conciliation, mediation or arbitration fails, a dispute may be referred to the Labour Court for adjudication. The **Labour Court** is limited to hearing and deciding on disputes referred to it by the LRA.

Appeals against the decision of the Labour Court can be heard by the **Labour Appeal Court**. The Labour Appeal Court can rule on all appeals and any questions arising from the proceedings of the Labour Court.

1.8.3 Strikes and lock-outs

The LRA makes provision for **strikes** for the purpose of remedying a **grievance**. Generally speaking, a strike refers to a collective refusal by workers to work or to delay or obstruct work from being carried out. It also covers any refusal to work overtime whether it is compulsory or voluntary in nature.

The LRA also covers protest action, replacement labour for strikers, **picketing**, maintaining **essential services** and lockouts.

1.9 Compliance and penalties if the business does not comply

If any employer or employee does not comply with the Act, they will be forced to enter into a dispute resolution process. The dispute resolution process is summarised in the diagram below.

Each of the participants in a specific labour relationship will fulfil their own regulatory function in terms of the Act. Agreements reached during the process are binding and failure to comply will result in a fine. The amount of the fine may be stipulated by the Minister of Labour through a notice in the Government Gazette.



1.10 Actions regarded as discriminatory acts as listed in the LRA

The Labour Relations Act contributes towards ensuring employment equity. It regulates labour relations and ensures that there is no discrimination in the workplace and that democratic processes and decisions are followed.

The LRA, as regulator of labour relations, provides mechanisms for conflict resolution for both the employer and employee. These mechanisms also apply if the conflict is as a result of discrimination.

ACTIVITY 4 DESCRIBE THE LRA

1. Match the definitions in column B with the appropriate terms in column A.

(2 × 10)

Column A	Column B
1.1 Lock-out	A. Parties are each given an opportunity to state their case separately, whereafter a final binding ruling is made
1.2 Arbitration	B. One or more trade unions or employers' organisations that conclude agreements on behalf of others
1.3 Dispute	C. An employees' response to a real or imagined breach of the terms of the employment contract
1.4 Collective Bargaining	D. Partial or complete refusal to work
1.5 Bargaining Council	E. Getting the two parties together to agree to a settlement of the dispute
1.6 Conciliation	F. Employees are denied access to the premises while the dispute-resolution process is in progress
1.7 Strike	G. One or more registered trade unions join to prevent and resolve labour disputes
1.8 Picketing	H. Effecting a friendly resolution to a dispute between two parties by acting as a link between them
1.9 Grievance	I. Serious disagreement
1.10 Mediation	J. Employees standing in the vicinity of a business when there is a strike on in order to prevent employees or customers from entering the premises

- Describe the consequences for a business if it does not comply with the Labour Relations Act. (2)
- Give your own opinion about why an organisation like the CCMA is needed in South Africa. (6)

Abbreviation

Nature

Purpose

Advantages

Disadvantages

Rights of the business and consumers

Compliance and penalties

Discriminatory acts

Before 1994, only government-owned and parastatal businesses were required to provide agreements between registered labour organisations and the state.
To promote procedures for the resolution of labour disputes.
Secures benefits for employers and employees through its involvement in workplace processes and procedures. For example, it promotes fair employment and dismissal practices, and ensures workers are fairly treated by requiring implementation of the Codes of Good Practice.
Promotes and recognises the rights and responsibilities of employees and employers, which assists in important processes such as wage negotiations.
Recognises the rights and responsibilities of trade unions and thereby promotes orderly collective bargaining and effective resolution of labour disputes.
Provides opportunities for and encourages workers to participate in decision making.
Some employees and employers do not understand or respect the LRA.
The LRA provides for the establishment of trade unions and gives them negotiating power. Some trade union actions may not be motivated by their members' interests.
Labour disputes and bargaining council processes can become disruptive and time-consuming and can lead to a decrease in productivity in businesses.
Employers and employees have rights to bargain collectively, the CCMA settles and the Labour Relations Act (LRA) are not explicitly mentioned in the Act.
Employers and employees who do not comply with the Act will be subjected to the dispute resolution process CCMA → Labour Court → Labour Appeal Court.
The Act is intended to remove discrimination from the workplace.

KEY WORDS

statutes – laws

affirmative action – when employing staff, an employer must give preference to groups of people who were previously excluded from full participation in the economy

demographics – the population statistics and how the population is spread around the country

Employment Equity Plan

– a plan that shows how a business will ensure it employs a representative number of employees from all population groups

designated groups – groups of people who are specified in the Act as the recipients of affirmative action measures

prohibited – something that is illegal or not allowed

The Employment Equity Act and Basic Conditions of Employment Act are among a number of recent **statutes** that were passed in response to demands for redress and equity. In this Unit, we discuss the Employment Equity Act (EEA).

1.11 Nature of the Employment Equity Act (EEA)

The EEA was passed 1998 to redress the imbalances of the apartheid past in South Africa. The Act promotes employment equity and regulates **affirmative action**.

The EEA aims to ensure equality for all people by providing equal opportunities for employment and fair treatment in the workplace. It introduces measures to prevent unfair discrimination at all levels, so that employment matches the **demographics** of the country.

The Act outlines the following processes and procedures regarding discrimination and affirmative action.

1.11.1 Discrimination

- Elimination of unfair discrimination
- Identifying where discrimination takes place
- Testing and assessments
- Dealing with disputes relating to unfair discrimination

1.12 Affirmative Action

- Identifying which employees qualify for affirmative action
- Setting out obligations of the employer
- Describing the duties of the employee
- Compliance with the requirements of the EEA and addressing income differences

The Act requires companies to have an **Employment Equity Plan**. An Employment Equity Plan is part of a code of good practice.

1.13 Purpose of the Employment Equity Act

The overall purpose of the EEA is to achieve equity in the workplace by

- prohibiting unfair discrimination against all employees
- putting in place affirmative action measures for “**designated groups** of employees”.

Under the conditions of the EEA, every employer must take steps to promote equal opportunities in the workplace by **eliminating** all unfair employment policy or practice.

Medical testing as part of the employment process is also **prohibited** unless properly justified by the nature of the position, e.g. airline pilot.

Employers must draw up and implement Employment Equity plans and must comply with employment equity requirements if they contract with the state.



Employees are protected from discrimination by the EEA. **Downloaded from eduresourceza.com**

The Act outlines the affirmative action measures for companies, how this will be monitored and enforced, and the legal consequences of non-compliance.

ACTIVITY 5 ADVISE ON UNFAIR DISCRIMINATION

"Miss Zippy-Zappy", is a store that sells trendy clothes for "the young and the young-at-heart". The owners want to expand their business, so they advertised for shop assistants who are under the age of 25. Mandisa applied for the job, even though she is nearly 30 years of age. She is also the mother of two young children. To justify its policy of only employing people under 25, the employer told Mandisa that the salary for shop assistants is rather low and she might not feel comfortable in the youthful culture of the workplace. Furthermore, she might have to take instruction from a younger person than herself and her family responsibilities might prevent her from doing the job properly. Mandisa feels she has been the victim of discrimination and wants to appeal against the decision not to employ her.

1. Where can Mandisa lodge a complaint against the employer? (2)
2. On what grounds would she claim that she was the victim of unfair discrimination? (4)
3. Discuss all the reasons why you think Mandisa was treated unfairly. (6)

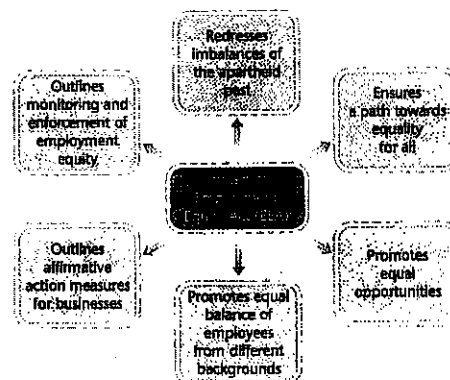


1.14 Advantages and disadvantages of the Employment Equity Act

1.14.1 Advantages of the Employment Equity Act

The Employment Equity Act has the following advantages for businesses and/or employees:

- promotes equal opportunity and fair treatment in employment
- promotes the implementation of affirmative action measures to redress the imbalances in employment
- prevents unfair discrimination, directly or indirectly, against an employee in any employment policy or practice, on one or more grounds including race, gender, and disability
- creates a framework of acceptable employment practices and affirmative action measures, e.g. training of previously disadvantaged groups
- it promotes diversity in business
- encourages consultation between employer and employees
- it requires that businesses should develop and implement an employment equity plan.



1.14.2 Disadvantages of the Employment Equity Act

- Employees with insufficient experience can be appointed and promoted into positions where they are not able to cope with the job at hand.

KEY WORDS

Compliance Order – an order to an employer who is not complying with the requirements of the Act, to do so

bona fide – good faith

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requires investment in training.

- Businesses are often forced to employ someone that they would not necessarily have chosen as their first choice.
- In certain businesses, the EEA is not managed properly and is used as a basis for unfairly promoting individuals.
- The development of an Employment Equity Plan is time consuming.
- In some businesses, the EEA is not taken seriously as it is viewed as discriminatory and hampering economic progress through the insistence on employing individuals who may not be sufficiently skilled.

1.15 Rights of the business and employees

Affirmative action applies to “designated” groups of people who were previously the victims of discrimination in the labour market. These “designated” groups include Black people (Black, Coloured and Indian); women; and people with disabilities. They have the right to be considered for employment in terms of affirmative action initiatives.

Businesses that employ 50 or more people, or a small business that has a total annual turnover equal to or above a specified amount, must draw up an Employment Equity plan. This must be submitted to the Department of Labour together with an annual report on the extent to which the employment equity plan (and affirmative action) is being implemented.

Businesses that do not fit the criteria mentioned above do not have to comply with the affirmative action requirements of the Act, but they can still willingly agree to do so.

1.16 Compliance and penalties if the business does not comply

- If an employer fails to comply with the administrative requirements of the Act, they may receive a **Compliance Order**.
- The Labour Court may impose a fine ranging from R500 000 (first offence) to R900 000 (after four offences).

It is important to note that an employer cannot be fined for not achieving the target set in the Employment Equity Plan, but the Labour Court may act against an employer that has made no **bona fide** effort to reach targets.

1.17 Actions listed as discriminatory acts in the EEA

Any behaviour or actions against a worker on grounds of characteristics such as race, gender, sexual preference, age and status, religious affiliation or disability, are regarded as discriminatory. In terms of the Employment Equity Act, any person who is denied access to the workforce by being treated unfairly or differently from others is being discriminated against.

The Act also prohibits medical testing, psychometric testing of employees, unless it is not biased against an employee or group, and all forms of harassment.

Employment Equity Act	
Abbreviation	EEA
Nature	Recent legislation that was instituted to ensure equality for all people through equal opportunities and fair treatment in the workplace.
Purpose	To promote equity in the workplace and to regulate affirmative action. Provides equal opportunity and fair treatment in employment to previously disadvantaged employees.
Advantages	Promotes the implementation of affirmative action measures to redress the imbalances in employment. It promotes diversity in business. Inexperienced employees can be appointed and promoted into positions where they are unable to perform the job. Corruption and nepotism could be promoted.
Disadvantages	Businesses are often forced to employ someone they do not regard suitable within their organisational culture. The development of an Employment Equity Plan is time-consuming and costly for the business.
Rights of the business and consumers	Employees in the business have the right to be treated according to the Act, which provides for the right to be considered for employment promotion in terms of affirmative action initiatives. General consumer rights are not specified in the Act.
Compliance and penalties	If an employer fails to comply with the administrative requirements of the Act by not submitting their Employment Equity Plan to the Department of Labour, they may receive a Compliance Order. The Labour Court may impose a fine ranging from R500 000 (first offence) to R900 000 (after four offences).
Discriminatory acts	The Act prohibits discrimination towards a worker based on race, gender, sexual preference, age and status, religious affiliation or disability.

Basic Conditions of Employment Act No. 75 of 1997

The Basic Conditions of Employment Act (BCEA) was also developed in response to the demands for redress and equity, and has impacted both small and large businesses.

1.18 Nature of the Basic Conditions of Employment Act (BCEA)

The Constitution gives people the right to fair labour practices and the Basic Conditions of Employment Act ensures that these rights are put into effect. The Act applies to all employers and employees except members of the National Defence Force, National Intelligence Agency, South African Secret Service and unpaid volunteers working for charities.

The BCEA applies to casual, temporary and permanent employees as well as independent contractors. The BCEA should inform the contract between the employer and employee as it provides the minimum conditions under which South Africans are employed. Employers can adapt and add to the contract according to the requirements of the individual employee and the company.

1.19 Purpose of the Basic Conditions of Employment Act

The overall purpose of the Act is to advance economic development and social justice, and to regulate the right of workers to fair labour practices.

The more specific aims of the Act are to:

- Regulate basic conditions of employment for all employers and employees
- Set minimum standards for employment contracts.

The BCEA provides regulations regarding minimum employment requirements such as:

- Working times (ordinary hours, overtime, public holidays etc.),
- Leave (including annual, sick, family responsibility and maternity leave)
- Remuneration (including salaries, wages, and **fringe benefits**)
- The prohibition of child and forced labour.

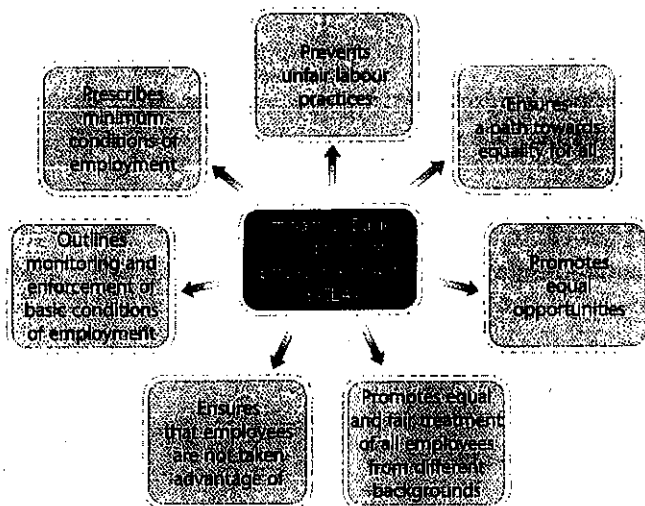
KEY WORDS

fringe benefits – compensation in addition to salaries or wages, e.g. car allowances, travel allowances, cell phone allowances

1.20 Advantages and disadvantages of the Basic Conditions of Employment Act

The Act regulates the basic conditions under which companies employ workers, the way in which workers are treated while they are employed, and provides the rules regarding resignations and dismissals. These basic conditions give strict guidelines to employers and employees which ensures fair labour conditions for all who are covered by the Act.

1.20.1 Advantages of the BCEA



The BCEA has the following advantages for businesses:

- promotes equal opportunity and fair treatment in employment
- prevents unfair discrimination, directly or indirectly, against an employee in any employment policy or practice, on one or more grounds including race, gender, and disability
- creates a framework of acceptable employment practices e.g. contracts, work hours, leave etc.
- promotes fair treatment of employees in business
- encourages consultation between employer and employees
- outlines minimum requirements and forms the basis of employee contracts.

1.20.2 Disadvantages of the BCEA

- The process of ensuring that all employees have contracts can be time-consuming.
- Some employees and employers may view contracts as a negative restriction.
- Employees are legally restricted to maximum working hours and therefore cannot work more if they choose to.
- Many of the processes and procedures stipulated in the BCEA can be very costly to a business e.g. the requirement that employees are provided with the necessary training to do their jobs.
- Businesses are restricted within the framework of the BCEA in that they have no choice but to comply with all requirements of the Act.
- Businesses cannot offer cheap labour.
- Many processes are corrupted and not managed properly in companies.
- The development of contracts is time consuming.
- Some businesses regard the BCEA as unimportant and unnecessarily burdensome.

1.21 Rights of the business and employees

The BCEA covers a wide range of rights, some of which are dealt with below.

1.21.1 Working hours

Ordinary hours of work

A worker must NOT work more than

- 45 hours in any week
- Nine hours a day if a worker works five days or less per week, or eight hours a day if a worker works more than five days a week.



Overtime

If overtime is required, workers must agree to do this. No more than three hours overtime a day or ten hours a week can be worked.

Overtime must be compensated as follows:

- One-and-a-half times the employee's normal rate of pay for overtime worked on week days and Saturdays
- Double the employees' normal rate of pay for overtime worked on Sundays and public holidays
- The employer can decide to pay cash or give the employee time off in lieu of overtime worked.

Meal breaks and rest periods

Workers must have a meal break of 60 minutes after five hours of work. This can be lowered to 30 minutes by written agreement.

A worker must have a daily rest period of 12 continuous hours and a weekly rest period of 36 continuous hours, which unless otherwise agreed, must include Sunday. Sunday work is regarded as overtime and paid accordingly.

Night work

Workers who work between 18:00 and 06:00 must get extra pay or be able to work fewer hours for the same pay.

Public holidays

Workers must be paid for any public holiday that falls on a working day. Work on public holidays is by agreement and paid at double the rate.

1.21.2 Leave

Annual leave

Workers can take up to 21 continuous days' annual leave or one day for every 17 days worked.

An employer can only pay a worker in lieu of leave if that worker leaves the job.

Sick Leave

Workers can take up to six weeks' paid sick leave during a 36-month cycle. Workers are only entitled to 1 day for every month worked during the first six months of their employment. Thereafter, they may take all 30 days' sick leave, provided they meet the legal requirements.

An employer may require a medical certificate before paying a worker who is sick for more than two days at a time or more than twice in eight weeks.

KEY WORDS**termination of employment**

– the ending of the employment relationship by either the employee or the employer

retrenchment – termination of employment through no fault of the employee, e.g. as a result of company restructuring

severance pay – when employees' services are terminated due to retrenchment, a minimum of one week's pay for every completed year of unbroken service must be paid to the employees, together with any other payments due to them (e.g. leave pay, pension fund contributions)

Certificate of Service – statement of the details of employment, e.g. length of employment and role

Maternity leave

A pregnant worker can take up to four continuous months of maternity leave. The starting date is usually any time from four weeks before the expected date of birth or on advice of a doctor or midwife.

Family responsibility leave

Full-time workers employed for longer than four months can take three day's paid family responsibility leave (usually for family illness or death of a close relative).

1.21.3 Job information

Employers must provide new employees with information about their job (a job description) and their working conditions, in writing. This will include salary information and the deductions that will be made each month.

Remuneration issues

- Payment must be made on a regular basis as negotiated, and payslips containing details of payment must be issued to workers.
- Deductions must be agreed in writing and in accordance with the law.

1.21.4 Termination of employment

An employee wishing to terminate his/her employment contract must give due notice in terms of the time stipulated on the employment contract. The notice to end the employment contract must be given in writing.

Notice of **termination of employment** by the employer must be given to the employee in writing. The written notice requirement applies regardless of the reason for the termination, i.e. dismissal due to, for example, misconduct or retrenchment. In the case of **retrenchment**, **severance pay** must be paid to the employee according to the length of time worked at the company.

Employees may challenge dismissals if they consider these to be unfair.

A **Certificate of Service** must be issued to a worker when the job is terminated either by the worker or by the employer.

1.21.5 Child labour and forced labour

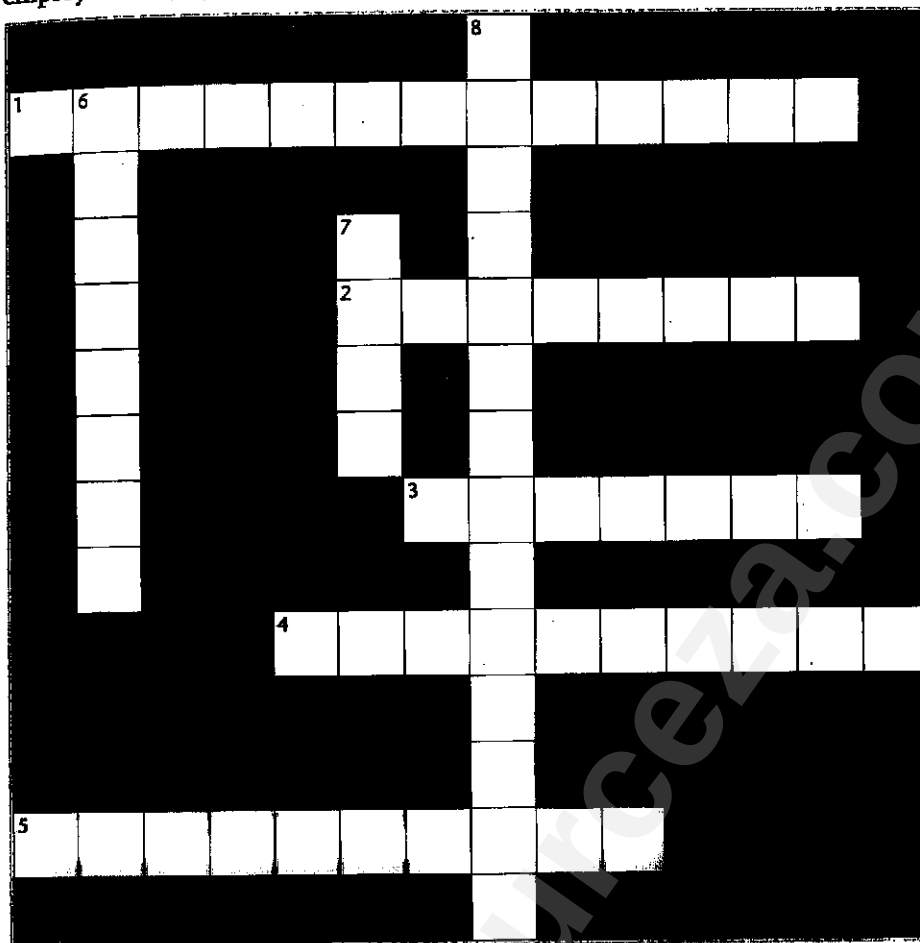
In order to protect children from exploitation in the labour market, the Act is clear that it is unlawful to employ a child under 15 years old.

While children over the age of 15 may be employed, no one under the age of 18 may do dangerous work or work meant for an adult, such as labour that requires adult physical strength.

It is against the law to force anyone to work.

ACTIVITY 6: APPLY YOUR KNOWLEDGE ON THE BCEA

1. Complete the crossword below to test your knowledge of basic conditions of employment. (16)

**ACROSS**

1. Workers must be paid for any that falls on a working day. (6 letters; 7 letters)
2. Workers get 1.5 times their pay for doing this. (8 letters)
3. Termination of services must be given in (7 letters)
4. Inspectors can give a order to a company where the requirements of the BCEA are being broken. (10 letters)
5. A worker must rest for 12 hours per day. (6 letters)

DOWN

1. It is to employ a person under the age of 15. (8 letters)
2. Maternity leave of up to months can be taken. (4 letters)
3. Information about the work an employee is hired to do is called a (3 letters; 11 letters)

KEY WORDS

Labour Inspectors – inspectors appointed to ensure that the requirements of the BCEA are being met in the workplace

1.22 Compliance and penalties if the business does not comply

The Act makes provision for Labour Inspectors who must not only advise workers and employers on their labour rights and obligations, but also carry out inspections and investigate complaints. **Labour Inspectors** may copy and remove records from the company if these are needed as evidence.

When the Labour Inspectors find that the Act is not being adhered to, they may issue an order to the company to comply with the law (Compliance Order). It is also the responsibility of the Labour Inspectors to report non-compliance to the Department of Labour.

The Department of Labour will verify the facts and either agree with the order, or change or cancel it. The decision can be challenged in the Labour Court.

It is important to note that if workers demand their rights in terms of the Act, they may do so without being treated unfairly or victimised

1.23 Actions listed in the BCEA regarded as discriminatory acts

Any actions that blatantly disregard the basic conditions of employment or the provisions of the Act are regarded as discriminatory and unfair. Remember, though, that unfairness is only discriminatory if the unfairness is on the grounds of a characteristic such as race, gender or disability.

ACTIVITY 7 DESCRIBE AND REPRESENT THE ACTS VISUALLY

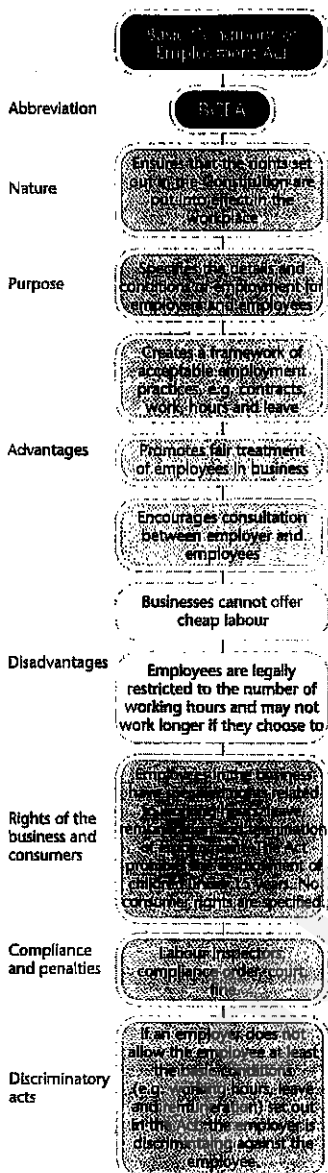
Study the Employment Equity Act (EEA) and the Basic Conditions of Employment Act (BCEA) and answer the question that follows.

1. Describe how each of these Acts addresses the key issues listed in the table below. Use the headings as a guide to tabulating your findings.

Redresses imbalances of the apartheid past		
Promotes equal opportunities		
Outlines affirmative action measures for businesses		
Outlines monitoring and enforcement of employment equity		

(16)

2. Create a mind map that summarises the key aspects of the EEA and the BCEA. (10)



Compensation for Occupational Injuries and Diseases Act No. 61 of 1997

The Compensation for Occupational Injuries and Diseases Act (COIDA) No. 61 of 1997 is another law that was developed in response to the demands for redress and equity and which impacts upon small and large business.

1.24 Nature of the Compensation for Occupational Injuries and Diseases Act (COIDA)

The COIDA of 1997 amends the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993, in that it provides more comprehensive protection to employees who are injured in the course of performing their duties. Employees who are injured on the job have the right to claim compensation.

The Act provides for the establishment of a Compensation Board whose function is mainly to advise the Minister of Labour on the application and provisions of the Act.

Medical expenses and other types of compensation are paid to employees and/or their families depending on the type and **severity** of their injuries, i.e. **temporary disablement**, **permanent disablement** or death.

1.25 Purpose of the Compensation for Occupational Injuries and Diseases Act

The purpose of COIDA is to protect employees and their families against injury or death that is the result of duties performed for an employer. Therefore the Act provides for compensation for employees and/or their families for injuries or death that occur in the course of employees' work duties.

The Act specifically provides as follows:

- the employee must be a bona fide employee of the company and the injury must have been caused by an accident while carrying out normal duties.
- The Act applies to all employees, including casual and full-time.

As is the case with other Acts, some categories of employees are not covered by the Act, for example, members of the SANDF or SAPS while acting in defence of the country; domestic workers employed in a private household; and contract workers.

Provided that employees fulfil the above conditions, compensation will be paid to them or their **dependants** if employees die as a result of those injuries. Employees do not have to prove that there was negligence or fault on the part of employers in order to claim compensation.

Any employer with more than twenty employees must appoint one or more health-and-safety representatives after consultation with employees, and provide whatever facilities, assistance and training may be required. Among their other duties, health-and-safety representatives must visit the place where the accidents occur, and attend any formal inquiry or investigation into an accident.

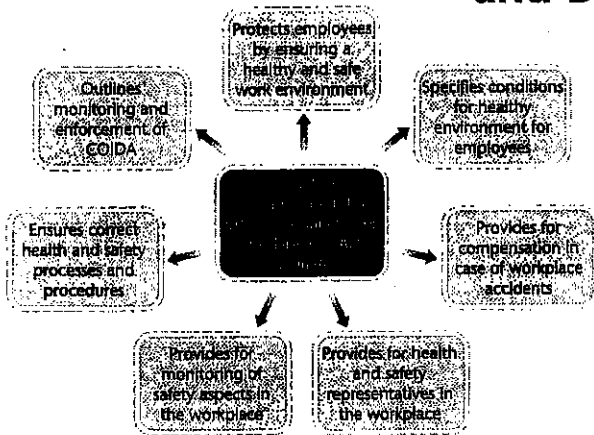
Employers must also establish health-and-safety committees in the workplace, and consult them regularly to and discuss and review measures to ensure health and safety.

KEY WORDS

COIDA – legal protection offered to employees and their families against injury or death that is the result of duties performed for an employer
severity – seriousness
temporary disablement – the employee is unable to do his job for a given period of time, after which he recovers from his injuries and is able to return to work
permanent disablement – the employee has been so severely injured that he will never be able to return to his job
dependant – a person who relies on another, especially family members



1.26 Advantages and disadvantages of the Compensation for Occupational Injuries and Diseases Act



The main advantage of the Act is that workers are protected by being able to claim compensation after an accident at work and avoid having to carry the burden of expensive medical bills themselves. Employers are also protected from heavy claims being made against them by injured workers. The Act therefore provides a type of insurance for both employers and employees.

The greatest disadvantage of the Act comes from attempts to claim compensation **fraudulently**. The administrative functions that must be performed in the process of claiming compensation can also be time-consuming.

KEY WORDS

fraudulently – done dishonestly or involving dishonesty

1.26.1 Advantages of COIDA

The Compensation for Occupational Injuries and Diseases Act has the following advantages for both employers and employees:

- Any employer with more than twenty employees must appoint a health-and-safety committee and one or more health-and-safety representatives which means health and safety issues are constantly being considered.
- The Act promotes safety in the workplace.
- Employers are forced to take responsibility for injuries occurring at work.
- All employees are covered provided they fulfil the necessary requirements.
- The Act outlines responsibilities which the businesses must fulfil.
- It creates a framework of acceptable employment practices and safety regulations.

1.26.2 Disadvantages of COIDA Compensation for Occupational Injuries and Diseases Act

The Compensation for Occupational Injuries and Diseases Act has the following disadvantages for employers and employees:

- Businesses could be forced to make large payments if they have not taken the necessary precautions according to the Act.
- The Act does not cover workers that are partially or totally disabled for less than three days, domestic workers and military workers.
- Workers that are temporarily or permanently working in foreign countries are not covered.
- The processes and procedures required by the Act can be very costly for businesses.
- The processes and procedures can be time-consuming.

1.27 Rights of employees and obligations of the business

It is the responsibility of the employer to provide a healthy and safe working environment (for example, proper ventilation, measures against noise pollution

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and suitable lighting) and to ensure that the employer has adequate changing rooms, drinking water and seating.

Employees have the right to make claims for compensation and their dependants have a right to receive that compensation if the worker has died as a result of the accident. This places certain obligations on employers to ensure that the injured employee will receive compensation.

Employers must register with the Commissioner of the Compensation Fund as a contributor to the Compensation Fund and send records of wages paid and time worked by all employees. It is the Commissioner's duty to work out how much the employer will pay into the Fund each month. No deductions are made from employees' salary packages.

Employers must keep records of time worked and wages paid for a period of four years.

1.27.1 Procedure for claiming compensation

- The employee must notify the employer as soon as reasonably possible after the accident that he/she intends to put in a claim for compensation. It is, however, the employer's responsibility to notify the Commissioner within seven days.
- The employee can expect the employer to lodge the claim for compensation within 12 months of the date of the accident or death.
- The amount of compensation is dependent on the seriousness of the injury or disease and how responsible the employer was for the injury or disease. These facts must be made clear in the application for compensation.

ACTIVITY 8 DISCUSS THE IMPACT OF A WORK INJURY

Read the case study and answer the questions that follow.

Themba is an airplane mechanic and his job is to service and repair airplanes. This job carries high risk and now that Themba's wife is having a second baby, Themba is more aware of the impact of a serious injury will have on his family if he is no longer is able to work.

1. Discuss the impact that serious injury could have on Themba and his family. (6)
2. Discuss the impact that serious injury could have on the business he works for. (6)
3. Investigate precautions that the business can take to reduce the impact on Themba, his family and the business. (8)

1.28 Compliance and penalties if the business does not comply

The Commissioner appoints inspectors to ensure businesses comply with the Act. These inspectors have special powers relating to health and safety and incidents at the workplace.

Contraventions of the Act are dealt with on an individual basis, and employers may be fined for not notifying the Commissioner within the specified time or failing to do so altogether.

1.29 Actions listed in COIDA regarded as discriminatory

Abbreviation	COIDA
Nature	Compulsive protection to employees who are injured in the course of performing their duties. Compensation Board to advise the Minister.
Purpose	Specifies the rights and responsibilities of casual and full-time employees in the case of injury or disease. Workers are able to claim compensation in the case of an accident at work.
Advantages	Employers are protected against claims against them by injured employees. Insurance for all employees, casual and full-time. Potential fraudulent claims.
Disadvantages	Business could be faced with enormous costs if they do not take the necessary steps to comply with the Act.
Rights of the business and consumers	The business injured employee has the right to claim compensation. General consumers have no specified rights in the Act.
Compliance and penalties	Inspectors appointed, each contravention is dealt with on a case-by-case basis.
Discriminatory acts	An employer who does not contribute to the fund and does not pay claim for the injury is discriminating against the injured employee.

An employer who does not pay the monthly contributions or submit the employees' claims for compensation would be seen to be uncaring and thus, discriminating against his worker.

If employers fail to take the necessary precautions to ensure the workplace is a safe and healthy environment, then this may also be considered discriminatory.

ACTIVITY 9 ANALYSE CASE STUDIES ON COIDA

1. What does COIDA stand for? (2)
2. Describe the purpose of the COIDA Act. (2)
3. Read the following case studies and answer the question on each.

Case Study 1

George is employed as a carpenter in a furniture factory. He "borrows" an electric drill to do some work at home over the weekend. Unfortunately the drill slips while George's son is using it.

- 3.1 George applies for compensation following the accident with a faulty drill which belonged to his employer. Give your opinion on whether he will be successful or not. Give reasons. (8)

Case Study 2

Sipho dies at home from natural causes. He has been employed by XYZ Electronics for ten years and his family (dependants) want to apply to the Compensation Board for a pay-out.

- 3.2 Explain whether Sipho's family are entitled to a payout. Give reasons for your answer. (4)

Case Study 3

Margaret is employed as a domestic worker. She slips on the floor she has just washed.

- 3.3 Explain whether she will be able to claim and receive compensation. Give reasons for your answer. (4)

Case Study 4

Fred is permanently employed as a maintenance officer by a local business. His job involves painting and a variety of repair projects. One day, while he is painting, some large barrels are dislodged and roll against the ladder Fred is standing on. He falls off and breaks his arm. He immediately reports the accident to the health-and-safety representative who tells the manager.

- 3.4 Do you think Fred will be able to receive compensation? Give reasons for your answer. (4)

Black Economic Empowerment and Broad-Based Black Economic Empowerment Act No. 53 of 2003

1.30 Nature of BEE and B-BBEE

The Broad-Based Black Economic **Empowerment** Act (B-BBEE) is recent legislation that addresses redress and equity directly. It expresses South African society's response to the exclusion during apartheid of black, coloured and Indian people, women and the disabled from full participation in the economy.

In 2003, Government released a strategy for B-BBEE which defined it as:

- An integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa.

The B-BBEE process covers elements of human resource development, employment equity, enterprise development, preferential procurement as well as investment and ownership issues.

The first set of Codes of Good Practice instituted in 2003 was referred to as Black Economic Empowerment (BEE). This was criticised as being too narrow as it only measured equity ownership and representation in management. As a result, it advantaged very few black people. The B-BBEE Act of January 2004 was developed in response to the criticism of the 2003 Act. The intention was for a better spread of wealth across a greater number of South Africans.

In 2007 the Code of Good Practice on Black Economic Empowerment replaced the earlier Acts and was broken up into nine sections, namely;

- | | |
|-----------------------------------|---------------------------------------|
| 1. Measurement Framework | 2. Ownership Element |
| 3. Management Control Element | 4. Employment Element |
| 5. Skills Development Element | 6. Preferential Procurement |
| 7. Enterprise Development Element | 8. Socio-Economic Development Element |
| 9. Qualifying Small Enterprises | |

1.31 Purpose of BEE and B-BBEE

The main purpose of B-BBEE of 2004 is to enable wealth to be spread more broadly. It outlines areas that would give the government a better platform for bringing about a better spread of wealth. These include developing criteria for the qualification and granting of licences and concessions; for developing and implementing a preferential procurement policy; for determining qualification criteria for the sale of state-owned enterprises; and criteria for entering into partnerships with the private sector.

The B-BBEE Act is an **enabling framework** that allows for the development of Codes of Good Practice. Whenever the BEE of a company is measured, it is evaluated against the seven Pillars of Measurement of the B-BBEE Codes.

KEY WORDS

empowerment – the act of being given more power or authority to assert oneself in many different ways, depending on the circumstances

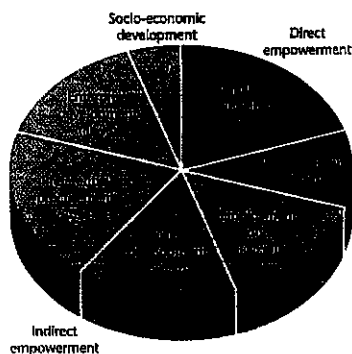


KEY WORDS

enabling framework – a set of guidelines that will assist, and not prevent, people from making progress.

KEY WORDS

South African Accreditation System (SANAS) – evaluates and approves the BEE status of businesses

**KEY WORDS**

animosity – strong hostility
broad-based approach – an approach that includes a number of factors against which to evaluate BEE

Instead of BEE being regarded only as equity ownership and participation at a management level, the B-BBEE Act makes provision for BEE to be measured against direct empowerment (30%) and indirect empowerment (70%).

Measurement is conducted by SANAS (**South African National Accreditation System**) or other agencies approved by SANAS.

No matter which agency conducts the measurement of BEE of a business, (even if it is done by the business itself) it must be in accordance with the B-BBEE Codes.

1.32 Advantages and disadvantages of BEE and B-BBEE

1.32.1 Advantages of BEE and B-BBEE

BEE and B-BBEE has the following advantages for businesses and employees. It:

- encourages business to address the demands for redress and equity directly
- provides a variety of codes for business to improve employment equity
- empowers previously disadvantaged employees
- provides benchmarks for business
- provides opportunities for an integrated and coherent socio-economic process, and allows businesses to contribute directly to economic transformation
- provides for human resource development through training and development
- promotes employment equity
- promotes enterprise development.

1.32.2 Disadvantages of BEE and B-BBEE

BEE and B-BBEE has the following disadvantages for business:

- It provides for preferential procurement.
- Many employees get jobs based on BEE rating rather than on proficiency.
- Not all businesses take the codes seriously.
- Many BEE practices lead to only certain groups benefitting.
- Processes can lead to corruption and jobs for friends.
- Many companies have been severely disadvantaged due to their BEE rating.
- BEE processes and procedures can be costly for a business.
- Investment and ownership issues can cause **animosity** between shareholders.
- Businesses could experience large financial implications if they do not adhere to the BEE processes and procedures.

1.33 Obligations of the business and the rights of employees

The business sector can help to realise society's needs and also to raise standards of living. It is therefore not surprising that increased pressure has come from the business sector with regard to social responsibility, affirmative action, business ethics, consumerism and environmental damage.

In its **broad-based approach** B-BBEE is also concerned with issues of human rights, inclusivity and the environment and this forms a common point of concern with the business sector.

1.33.1 Human Rights

The **Bill of Rights** as enshrined in the Constitution of the Republic of South Africa contains an impressive list of rights to which citizens of the RSA (and foreigners, in some cases) are entitled as part of their human rights.

In terms of B-BBEE, a few stand out, namely:

- **Equality:** Everyone is equal before the law and has equal right to protection and benefit of the law.
- **Human Dignity:** Everyone has inherent dignity and has the right to have their dignity respected and protected.
- **Slavery, Servitude, Forced Labour:** No one may be subjected to any of these.
- **Labour Relations:** Everyone has a right to fair treatment in the workplace.

KEY WORDS

Bill of Rights – as enshrined in the Constitution of the Republic of South Africa contains an impressive list of rights to which citizens of the RSA (and foreigners, in some cases) are entitled as part of their human rights
inclusivity – giving everyone an equal opportunity

1.33.2 Inclusivity

Inclusivity means giving everyone an equal opportunity. It means not discriminating against anyone on the basis of such issues as race, gender, sexual orientation, disabilities and HIV or Aids.

In a country with as much diversity as South Africa has, inclusivity tends to be complicated. The discriminatory policies of the past demand redress and therefore organisations should try to ensure that the people they employ represent the demographics (population statistics) of the country. It is difficult for them to do so and yet not exclude anyone from consideration.

The desired outcome of this process is workplaces of great diversity where people of different races, genders, religious beliefs and/or disabilities can work together harmoniously for the benefit of the business and society.

1.33.3 Environmental issues

B-BBEE is also concerned with the relationship between business and the environment.

Aspects of this relationship concern the working conditions of the employees. For example, work should not be carried out in an environment that is harmful to the workers' health and well-being. A healthy working environment has adequate lighting and ventilation.

Other aspects relate to the protection of the environment for the benefit of present and future generations. Environmental protection is ensured through reasonable legislation and other measures that prevent pollution and ecological degradation. This includes promoting conservation and encouraging ecologically sustainable development and use of natural resources.

Such measures imply that only justifiable economic and social development should be undertaken by businesses.



ACTIVITY 10 DISCUSS BLACK ECONOMIC EMPOWERMENT

1. Explain what is meant by the Bill of Rights. (2)
2. Define the term "inclusivity". Provide an example to support your answer. (4)
3. Compare Black Economic Empowerment and Broad-Based Black Economic Empowerment and describe the differences. (6)

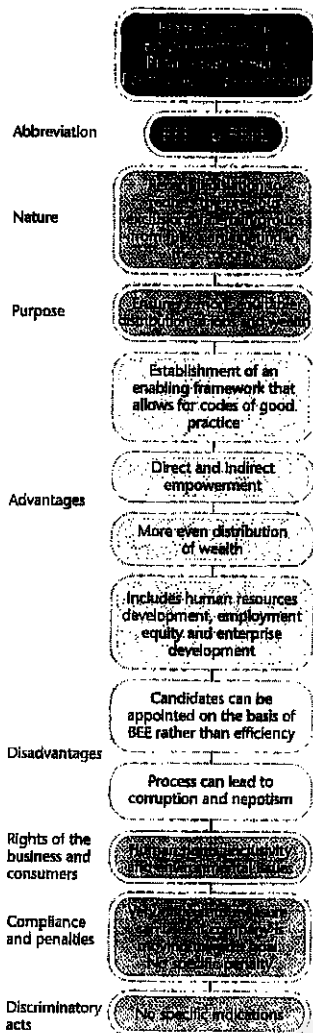
1.34 Compliance and penalties if the business does not comply

It is difficult to measure the impact of B-BBEE and compliance with the Act as the Codes of Good Practice only came into effect in February 2007. Various informal audits suggest that the number of black managers and professionals has increased since 1995 and continues to increase. However, exact statistics are not available.

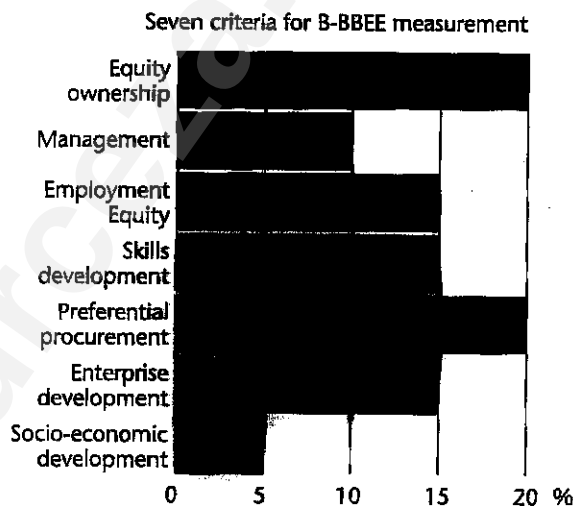
As with the Employment Equity Act, it is possible that, provided that the company demonstrates that it is moving towards its B-BBEE goal, there would be no specific penalty for non-compliance.

1.35 Actions listed as discriminatory

There are no specific indications of what these might be, but the same obligations as stipulated in the Employment Equity Act will apply to access and fair treatment of employees.



ACTIVITY 11 INTERPRET A GRAPH TO DISCUSS B-BBEE



- Using the graph above, name the seven criteria against which B-BBEE is measured. (7)
- Which of the seven pillars you named in 1 contribute the most to the B-BBEE rating? (2)
- Why is/are this/these pillar/s given the highest rating/s? (4)

The National Credit Act (NCA) is another example of recent legislation developed in response to demands for redress and equity, which impacts significantly on small and large business operations.

1.36 Nature of the National Credit Act (NCA)

The Act codifies a number of basic rights that the consumer has in the **credit** market. In the past, some consumers, especially the **illiterate**, were being exploited and left defenceless in an unequal bargaining position with the business or individual with whom the contract was concluded.

1.37 Purpose of the National Credit Act

The NCA aims to improve the protection offered to consumers and promotes full participation in the economy by all South Africans. The Act specifically aims to protect and promote the participation of previously disadvantaged South Africans, i.e. those people who couldn't fully participate because of high levels of poverty, illiteracy and other forms of social and economic inequality.

The NCA specifically aims to improve consumer rights, to streamline credit transactions, to improve the availability of various types of consumer products and credit guarantees and to ensure that these are provided efficiently and fairly.

The South African population consists predominantly of low-income earners who did not have access to credit in the past, except through **micro-lenders**. Repayments were often overpriced which led the consumer into debt that they could not repay.

To avoid the pitfalls of the above, the Act seeks to remove unfair discriminatory practices to make it easier for more people to have access to credit and to promote responsible granting of credit by credit providers

1.38 Advantages and disadvantages

1.38.1 Advantages of National Credit Act

The NCA has the following advantages for businesses and consumers.

- The NCA introduces new rights for consumers and measures that allow consumers to make informed decisions before buying goods and services on credit. Previously consumers were not always given all of the information on ingredients and production process of a good. The Act now requires that this be disclosed, so the consumer can make an informed decision about whether to buy the product or not. An example of disclosure is that labels have to state if there are additives in a food product, and how many.
- The NCA includes the right to apply for credit, free of discrimination and to be protected from discrimination, after credit has been granted. Previously consumers were able to apply for credit without any restrictions. With the new Act, before they lend money, organisations need to ensure that the borrower of the money (consumer) will in fact be able to pay back the money within the time stipulated.

KEY WORDS

credit – the ability of a customer to obtain goods before paying for them on the understanding that payment will be made in the future

illiterate – unable to read or write

micro-lenders – people or businesses who loan small amount of money to customers (especially low-income earners who cannot pass credit checks)

KEY WORDS

restructure debt – agree alternative repayment terms with creditor (person or business that loans the money)

forfeit – to lose or give up something as a penalty

assets – items of value that are owned by a human person or a legal person

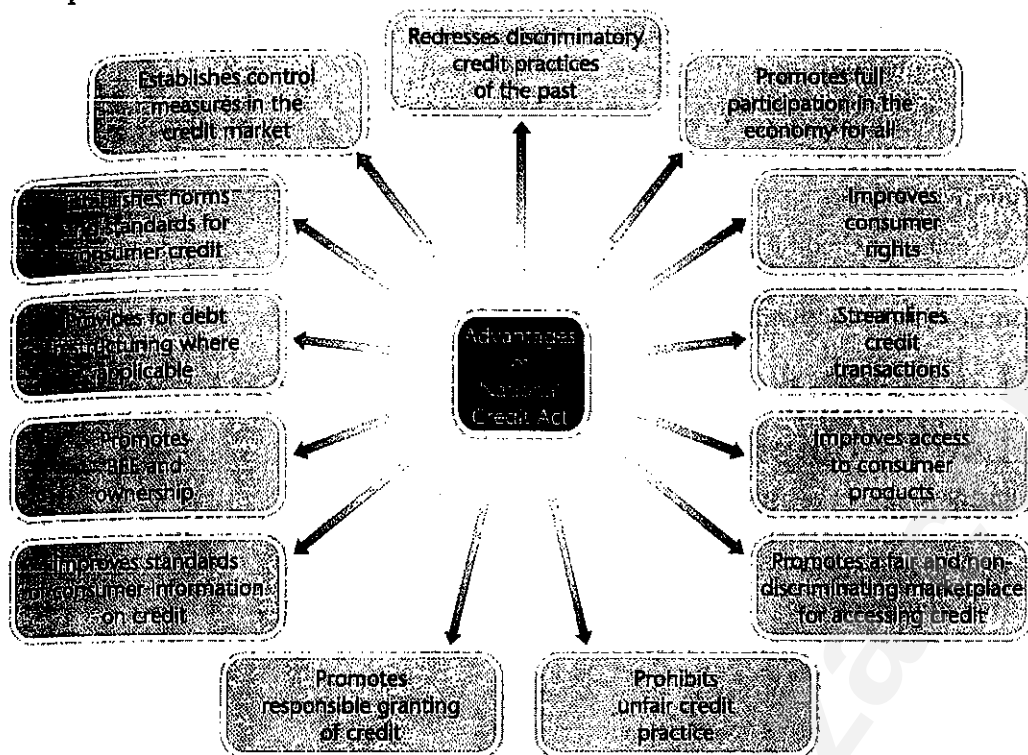
- Consumers have the right to a credit agreement that is written in plain and understandable language and to receive a copy of the agreement (and even a replacement copy when requested). Many legal contracts were written in legal language, so often consumers did not fully understand the terms and conditions laid out. Contracts now have to be written in simple and clear language and explained to consumers before they sign them.
- The NCA ensures consumers' personal information may not be shared with others. Organisations no longer have the right to distribute personal information and databases without the permission of the consumer. For example a bank may not "sell" or give a client's personal details to a retail store to use in promotional drives.
- The NCA provides that consumers may have a Debt Counsellor to help them to **restructure debts** so that they do not have to **forfeit** their **assets** to repay debt when they have over-extended themselves. If someone gets into serious debt, a business can not just come along and take their house or car. Consumers have the right to consult a debt counsellor who will help them by working out a way of paying off the debt over a period of time.
- The NCA guarantees that if a credit application has been refused, the applicant has the right to know the reasons why it was not approved. For example banks cannot turn down a bond application without giving the client a good reason.
- One of the aims of the NCA is to stop aggressive credit marketing practices such as customers' contact details being added to marketing or customer lists without their knowledge or consent, or customers being called as part of telemarketing campaigns.
- The NCA regulates consumer credit in general by establishing national norms and standards for consumer credit and improving the standard of the information consumers are given about the credit industry. For example laws have been put in place to establish what is appropriate and not appropriate in relation to lending money.
- The NCA offers the possibility of borrowing money to be able to take advantage of the BEE market and/or to start new businesses. This means that small and new businesses and entrepreneurs have the opportunity to borrow money through controlled, legal procedures.
- The NCA improves access to credit which puts possessions and lifestyle choices within reach of consumers for whom it would otherwise have been impossible. Those consumers who qualify are able to improve their lifestyles and buy products for which they may previously not have been able to get credit.

1.38.2 Disadvantages of National Credit Act

The NCA has the following disadvantages for businesses and consumers:

- A credit application by a consumer can be refused. If a businesses does a check and sees that a consumer that applies for-credit is not able to afford the repayments, it is able to refuse the application.
- Businesses can no longer carry out credit marketing. This means that businesses cannot advertise that they offer credit terms and options as this is now illegal.
- Credit limits and creditworthiness are more heavily regulated so many customers cannot buy the goods and services they previously would have bought.
- The paperwork and administrative processes required by the Act are costly

and time-consuming for businesses. Businesses are required to follow certain processes and procedures.



KEY WORDS

credit agreement – agreement between creditor and debtor (person who borrows money from creditor) regarding how and when the debt will be repaid
pawn – to provide goods when borrowing money, on the understanding that the goods will only be returned when the debt is repaid, in a certain period of time
stokvel – an informal savings scheme contributed to by a group of people, who take turns to draw from the scheme, thereby giving members access to lump sums for events such as funerals

1.39 Obligations of the business and the rights of consumers

1.39.1 Credit Agreements

The Act requires all credit agreements to be in writing, and recognises different types of **credit agreements**:

- credit facility e.g. credit card
- credit transaction e.g. **pawn**, discount, incidental credit, instalment, mortgage agreements.

The NCA differentiates between small, intermediate and large agreements depending on the monetary value of the debt:

- **Small agreement**: credit limit of R15 000 or less
- **Intermediate agreement**: credit limit above R15 000, but less than R250 000
- **Large agreement**: credit limit exceeds R250 000.

Businesses must provide consumers with pre-agreement documentation before concluding any credit transactions. This should include such information as

- the interest rate that will be charged
- the repayment period and the amount of the monthly repayment.

Not all credit agreements are recognised under the Act, for example, insurance policies, leases of immovable property (houses, business premises) and **stokvel** transactions.

1.39.2 Registration of credit providers

Banks and all credit providers who have either 100 agreements or more, or agreements with a book value of R500 000 or more, must register as authorised credit providers with the National Credit Regulator.

The role of the National Credit Regulator is to oversee compliance with the Act, educate consumers about their rights and obligations under the Act, register businesses, investigate complaints and conduct research and policy development.

The National Credit Regulator must also ensure an accessible credit market, particularly to address the needs of people who are historically disadvantaged, low-income, or live in remote, isolated and low-density communities.

1.40 Compliance and non-compliance penalties

1.40.1 Compliance

Businesses must register with the National Credit Regulator as credit providers in order to operate in the credit sector.

Credit providers are prohibited by the Act from allowing a borrower or customer to overextend their credit.

Before entering into a credit agreement with a customer the credit provider is required to do a credit check on them.

A credit provider is required to explain the costs, risks and responsibility of entering into a credit agreement with the customer, for example in the case of obtaining a bond or vehicle finance.

In addition, credit providers are not allowed to make use of misleading and deceptive marketing methods.

1.40.2 Penalties

Failure to register means a business is not complying with the provisions of the Act. A credit provider or debt counsellor who does not adhere to the regulations as set out in the NCA could even be criminally prosecuted.

	National Credit Act
Abbreviation	NCA
Nature	Improving the rights of the consumer and promoting full participation in the economy
Purpose	Legislates the basic rights of consumers in the credit market
	Customers can make informed decisions before buying on credit
	Credit agreement in simple language
Advantages	Personal information may not be shared with others
	Consumer has the right to know why credit has been refused
	Stops aggressive credit marketing practices
Disadvantages	Easier access to credit may lead to more debt
	Admin is time-consuming and costly
Rights of the business and consumers	Written credit agreements, customers have the right to see registration of credit provider and the right to take complaints to the National Credit Regulator
Compliance and penalties	Businesses must be registered with National Credit Regulator
Discriminatory acts	Credit may not be refused based on language, sex or other social discriminatory factors. Customers may not be denied proper information about products and services. Misleading advertisements are discriminatory

1.41 Actions regarded as discriminatory

The Act allows for anyone to apply for credit. Credit providers must give reasons to applicants if they refuse to give them credit. Credit may not be refused purely on grounds of gender, language, disability or any other factor contained in the Employment Equity Act. If businesses refuse credit on any of these grounds, then this will be discriminatory.

ACTIVITY 12 PROVIDE ADVICE ON PERSONAL CREDIT

Dorothy has borrowed money to buy her house and a car. She has used up all the credit on her credit card and has bought new clothes on account. Altogether she has a debt of over R300 000. She is finding it impossible to pay all her commitments each month and still have money over to buy food. She is very anxious about losing her assets as a result of not being able to keep up with the payments.

What practical advice could you give to Dorothy to help her get out of this difficult situation? Give details and reasons for your answer. (10)





The Consumer Protection Act (CPA) is another example of recent legislation developed in response to demands for redress and equity and which impacts small and large business operations.

1.42 Nature of the Consumer Protection Act (CPA)

The CPA is one of the pieces of legislation that has been introduced to counter the discriminatory laws of the past which led to unacceptably high levels of poverty, illiteracy and other forms of social and economic inequality.

Historically disadvantaged persons were unable to enjoy full participation as consumers and often experienced abuse and exploitation in the marketplace.

1.43 Purpose of the Consumer Protection Act

In light of the above, the purpose of the CPA is to promote and protect the economic interests of consumers by improving access to information to enable them to make informed choices according to their individual needs.

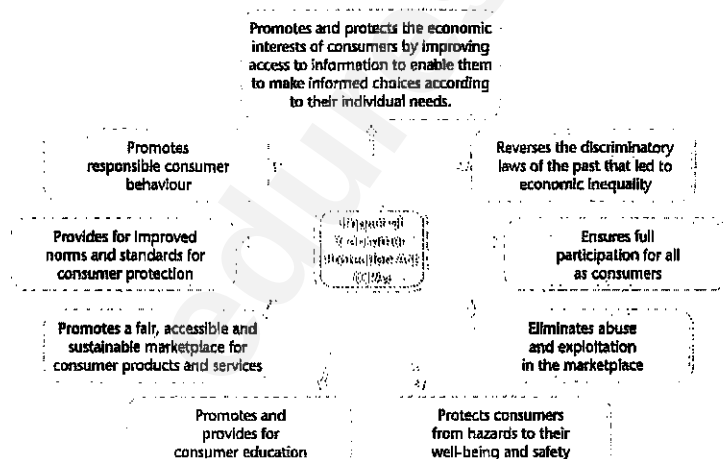
The CPA also aims to provide consumers with protection from hazards to their well-being and safety and to promote and provide for consumer education, including education concerning the social and economic effects of consumer choices.

1.44 Advantages and disadvantages of the Consumer Protection Act

1.44.1 Advantages of the CPA

The CPA has the following advantages. It:

- Promotes and protect the economic interests of consumers by improving access to information to enable them to make informed choices according to their individual needs.
- Protects consumers from hazards to their well-being and safety
- Forces business to promote and provide for consumer education
- Promotes a fair, accessible and sustainable market place for consumer products and services.
- Provides a framework for improved norms and standards for consumer protection.
- Forces consumers to make responsible and informed decisions.



1.44.2 Disadvantages of the CPA

The CPA has the following disadvantages for business:

- Businesses must disclose a lot more information about their products and processes.
- The Act encourages consumers to complain.
- Consumers can take advantage of businesses.
- The processes and procedures required of businesses by the Consumer Protection Act can be expensive and time consuming.
- Some businesses feel unnecessarily burdened by the processes required by the CPA.

The Act gives consumers the freedom to associate and form groups to advocate and promote their common interests (for example, through consumer organisations). This promotes consumer participation in decision-making processes concerning the marketplace and the interests of consumers.

1.45 Rights and obligations of the business and the rights of consumers

The CPA provides for improved **norms and standards** for consumer protection and promotes responsible consumer behaviour.

The right of both businesses and consumers are protected by the CPA as follows:

- the Act prohibits unfair marketing and business practices
- it promotes a consistent legislative and enforcement framework that regulates consumer transactions and agreement
- it establishes the National Consumer Commission.

The Act provides for the following specific fundamental consumer rights: the right to fair and responsible marketing, the right to choose which goods consumers will buy, from whom, and the right to return such goods if they are not satisfactory. Consumers also have the right to accurate information about the goods being marketed.

1.46 Compliance and penalties if the business does not comply

The extent to which a business complies with the Act reflects the degree to which the business feels that it is obliged to be of benefit to society as a whole and to contribute to improving the situation of consumers.

Serious cases of non-compliance by businesses will be addressed by the courts and consumers will be compensated in line with the extent to which their rights have been infringed. Each case is dealt with individually.

1.47 Actions regarded as discriminatory

Any actions that are socially irresponsible and unfair to customers can be regarded as discriminatory. Customers are said to be subjected to discrimination, for example, when they are denied proper information about products and services, when products and services are unsafe or when businesses mislead customers through false advertising and communication.

KEY WORDS

norms and standards – average or normal requirements or benchmarks; an approved model

	Consumer Protection Act
Abbreviation	CPA
Nature	Allows all consumers to buy on credit if they qualify; prevents consumer exploitation
Purpose	Promotes and protects economic interests of consumers through access to information
	Promotes access to information
Advantages	Assists with decision making
	Protects the rights of the consumers and promotes responsible consumer behaviour
Disadvantages	It is far easier for consumers to return goods and demand their money back, which is costly for businesses
	The processes and procedures required of businesses by the Consumer Protection Act are expensive and time-consuming
Rights of the business and consumers	Consumers have the right to fair and responsible marketing, to choose which goods to buy, from whom, and the right to return such goods if they are not satisfactory. The consumer also has the right to accurate information about the goods being marketed and sold
Compliance and penalties	Each case is dealt with individually by the Consumer Commission. Non-compliance could require payment of damages to successful claimants. The Consumer Commission may impose fines from R1 million to 10% of the business' annual turnover, whichever is greater
Discriminatory acts	Businesses may not discriminate against consumers by denying them proper information about goods and services

MACRO ENVIRONMENT: IMPACT OF RECENT LEGISLATION ON BUSINESS

Summary of Act	Unit 1	Unit 2	Unit 3	Unit 4
Act	Skills Development Act No. 97 of 1998	Labour Relations Act No. 66 of 1995	Employment Equity Act No. 55 of 1998	Basic Conditions of Employment Act No. 75 of 1997
Nature	Came into being during apartheid when poverty and unemployment were high; seen as part of National Skills Development Strategy	Before 1994 only government made and implemented labour laws. This Act provides agreement between organised labour, organised business and the state.	Recent legislation that was instituted to ensure equality for all people through equal opportunities and fair treatment in the workplace	Ensures that the rights set out in the constitution are put into effect in the workplace
Purpose	Develop the skills of people in South Africa to improve productivity	Promotes procedures for the resolution of labour disputes	Promotes employment equity and regulates affirmative action	Specifies details and conditions of employment for employers and employees
Rights of the business and consumers protected	Workers are encouraged to acquire skills and training	Bargaining councils, CCMA, strikes and lock-outs	Employment Equity Plan, Designated Groups Affirmative Action Plan	Working hours, leave, remuneration, termination of employment, child labour
Compliance and penalties	Companies must pay a skills development levy to offer learnership programmes or claim grants	Process of dispute resolution	Compliance order, court, fine	Labour inspectors, compliance order, court, fine
Discriminatory acts	No specific indication	Contributes to eradicating discrimination	Contributes to eradicating discrimination	Contributes to eradicating discrimination and unfair practice

ACRO ENVIRONMENT: IMPACT OF RECENT LEGISLATION ON BUSINESS

Summary of Act	Unit 5	Unit 6	Unit 7	Unit 8
Act	Compensation for Occupational Injuries and Diseases Act No. 61 of 1997	Black Economic Empowerment (BEE) and Broad Based Black Economic Empowerment (B-BBEE) Act No. 53 of 2003	National Credit Act No. 34 of 2005	Consumer Protection Act No. 68 of 2008
Nature	Compensation for employees who are injured in the course of performing their duties; Compensation Board to administer	Recent legislation to redress the previous exclusion of certain groups from fully participating in the economy	Improving the rights of the consumer and promoting full participation in the economy	Counter the discriminatory laws that did not allow all consumers full participation and contributed to exploitation
Purpose	Right responsibilities where workers are injured or contract a disease	Ensures a more equitable distribution of jobs and wealth	Legislates the basic rights of consumers in the credit market	Promotes and protects economic interests of consumers by providing access to information
Rights of the business and consumers protected	Makes, follow compensation procedure, receive compensation	Human rights, inclusivity, and environmental issues	Credit agreements, registration of credit providers, National Credit Regulator	Rights of consumer and business protected, fair marketing, improved norms and standards
Compliance and penalties	Insp appointed, each contravention is dealt with on an individual basis	Very difficult to measure, can see if company is moving towards goal; no specific penalty	Businesses must be registered with National Credit Regulator	Laws that allow for redress; each case to be dealt with individually
Discriminatory acts	No employment is seen as discriminatory	No specific indications	Credit cannot be refused on discriminatory grounds	When denied proper information to goods and services

MACRO ENVIRONMENT: IMPACT OF RECENT LEGISLATION ON BUSINESS

Summary of Act	Unit 5	Unit 6	Unit 7	Unit 8
Act	Compensation for Occupational Injuries and Diseases Act No. 61 of 1997 (COIDA)	Black Economic Empowerment (BEE) and Broad Based Black Economic Empowerment (B-BBEE) Act No. 53 of 2003	National Credit Act No. 34 of 2005	Consumer Protection Act No. 68 of 2008
Nature	Comprehensive protection to employees who are injured in the course of performing their duties; Compensation Board to advise the minister	Recent legislation to redress the previous exclusion of certain groups from fully participating in the economy	Improving the rights of the consumer and promoting full participation in the economy	Counter the discriminatory laws that did not allow all consumers full participation and contributed to exploitation
Purpose	Rights and responsibilities when workers are injured or contract a disease	Ensures a more equitable distribution of jobs and wealth	Legislates the basic rights of consumers in the credit market	Promotes and protects economic interests of consumers by providing access to information
Rights of the business and consumers protected	Make claims, follow correct procedure, receive compensation	Human rights, inclusivity, and environmental issues	Credit agreements, registration of credit providers, National Credit Regulator	Rights of consumer and business protected, fair marketing, improved norms and standards
Compliance and penalties	Inspectors appointed, each contravention is dealt with on an individual basis	Very difficult to measure, can see if company is moving towards goal; no specific penalty	Businesses must be registered with National Credit Regulator	Laws that allow for redress; each case to be dealt with individually
Discriminatory acts	Non-payment is seen as discriminatory	No specific indications	Credit cannot be refused on discriminatory grounds	When denied proper information to goods and services

SECTION A

QUESTION 1: MULTIPLE CHOICE

- 1.1. When the CCMA makes a final and binding ruling regarding a dispute, it is called
 A. mediation
 B. conciliation
 C. arbitration
 D. clarification (2)
- 1.2 The Sector Education and Training Authorities (SETAs) were established to
 A. develop sector skills plans
 B. approve workplace skills plans
 C. pay grants to companies that qualify
 D. all the above (2)
- 1.3 The NCA recognises all credit agreements, except
 A. credit cards
 B. housing loans (mortgages, bonds)
 C. stokvels
 D. pawn agreement (2)
- 1.4 Which of the following statements most correctly describes contributions to the Compensation for Occupational Injuries and Diseases Fund?
 A. only employees pay contributions to the Compensation for Occupational Injuries and Diseases Fund
 B. only employers pay contributions to the Compensation for Occupational Injuries and Diseases Fund stokvels
 C. all employers and employees pay contributions to the Compensation for Occupational Injuries and Diseases Fund
 D. those employers and employees who choose to, may pay contributions to the Compensation for Occupational Injuries and Diseases Fund (2)

[8]

QUESTION 2: MATCHING COLUMNS

In each case, choose the concept from Column B to match the term given in Column A.

	Column A		Column B
2.1	Debt restructuring	A	System of credits/ qualifications
2.2	Collective bargaining	B	Affirmative action
2.3	NQF	C	BEE
2.4	Preferential Procurement	D	Population
2.5	CCMA	E	National Credit Act
2.6	Demographics	F	Makes a profit
2.7	Micro-lender	G	Deals with labour disputes
2.8	SANAS	H	Trade Unions

(8)

[16]

SECTION B

QUESTION 3: (BUSINESS ENVIRONMENTS)

Study the advertisement below and answer the questions.

Insurance firm looking for young lady with experience in marketing department. Job requires the successful candidate to use lists of clients' details for telesales and marketing campaigns.

- 3.1 This advertisement could be seen as discriminatory. Discuss. (4)
- 3.2 Which Act would support the statement in 3.1? (2)
- 3.3 Name which other Act the advertisement may be violating. Analyse why it is a violation of the Act. (6)
- 3.4 Discuss non-compliance with the provisions of the Act you named in 3.2 and penalties if the business does not comply. (4)
- 3.5 Analyse and discuss the impact of the Act named in 3.2 on businesses and consumers. (6)
- 3.6 Identify another Act that also protects the rights of consumers. (2)

[24]

QUESTION 4: (BUSINESS OPERATIONS)

Study the case study below and answer the questions.

Thomas was interviewed for a position and was told that he was the successful candidate. However, when he saw the job description, which included his conditions of employment, he was unhappy to find that some of the items did not comply with the Basic Conditions of Employment Act.

Examine the extract from his job description below and indicate whether the various conditions are acceptable and which you think could have upset him. Give reasons for your answers.

Extract from Thomas's job description

- 4.1. Your working hours will be 07:00 – 17:00, Monday to Friday.
- 4.2. You may be expected to work overtime. The rate of pay will be equal to your daily rate.
- 4.3. You will not be expected to work on Sundays unless you and your manager have agreed to that.
- 4.4. You may be expected to work on Public Holidays. The rate of pay will be equal to your normal daily rate.
- 4.5. You will have 18 days' annual leave in your first complete year of employment.
- 4.6. Family Responsibility Leave is not normally granted.
- 4.7. Your monthly salary will be R 6 000 per month (R72 000 per year).
- 4.8. The monthly deductions will be indicated on your first month's salary slip.
- 4.9. You will not be expected to work at night.
- 4.10. When you return to work after having been ill, a medical certificate will be required.

[10 × 2 = 20]

SECTION C**QUESTION 5: LONG ANSWER QUESTION**

The South African Constitution of 1996 incorporates the Bill of Rights that protects the fundamental human rights of all citizens, but also protects a number of specific labour rights.

Recent labour legislation introduced in response to the need for setting right the injustices and inequalities of the past, has had a direct impact on both small and large businesses.

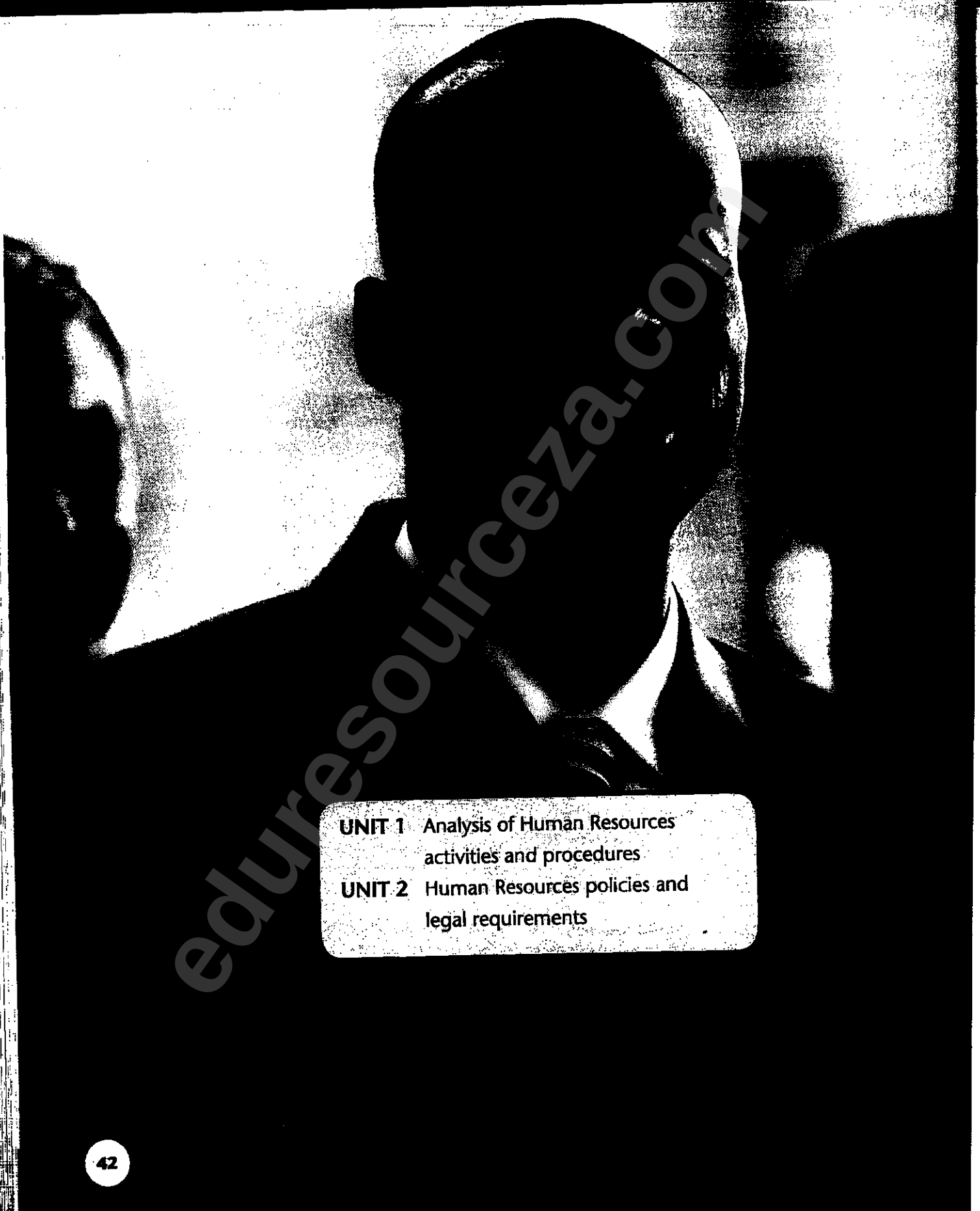
Choose any two Acts that you have studied in this chapter that you think have had the greatest impact on businesses in South Africa.

In your answer, indicate the main purpose of each of the Acts you choose. Describe their main features and their impact on employers and employees. (10)

[40]

Total marks: 100

2 Human Resources function



UNIT 1 Analysis of Human Resources activities and procedures

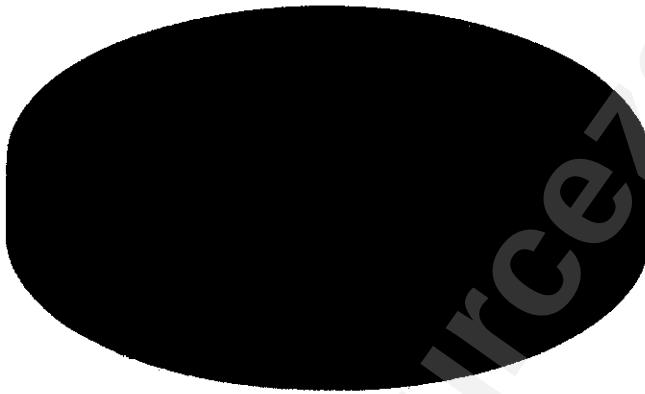
UNIT 2 Human Resources policies and legal requirements

Analysis of Human Resources activities and procedures

In Grade 10 you learnt about Human Resources activities, procedures, policies and legal requirements. In Grade 11 you studied Human Resources in more detail. In Grade 12 you need to recap the relevant legislation and the following aspects of the Human Resources function: **recruitment** and **selection**, employee contracts, **induction**, placement, skills development, salary administration and employee **benefits**.

The Human Resources department is responsible for aspects relating to the employees of the company. Depending on the size of organisation and its current priorities, the amount of time and resources spent on each of these aspects will vary. Some of the aspects managed by the Human Resources department are:

- recruitment and selection
- employee contracts
- placement, induction and skills development
- salary administration and employee benefits.



2.1 Recruitment

Recruitment is the process used by businesses to attract people to apply for vacant positions in the business. People are recruited to find the most suitable employee for the job description.

When recruiting, businesses must:

- ensure that advertising is done in the best possible way
- provide the correct information about the job to those who may be interested
- provide specific deadlines for applications
- be specific about the job requirements.

A company can recruit internally or externally. Internal recruitment is usually for a promotion post, where a business looks at the current staff to see who has the potential to fulfill a new role. Advertising is usually done via e-mail, posters and word of mouth.

External recruitment can be done through referrals (someone tells the company about a potential candidate), advertising in the media, a recruitment agency, **headhunting**, **professional associations** or **networking**.

KEY WORDS

recruitment – process of identifying vacancies, identifying suitable candidates and hiring a person for the position

selection – the process of choosing the right person for the right job

induction – orientation process for new employees, including limited specific training, introductions to key colleagues, policies and procedures

benefits – compensation received in addition to the cash component of a salary or wage, e.g. medical aid paid by the business, pension fund contribution paid by the business

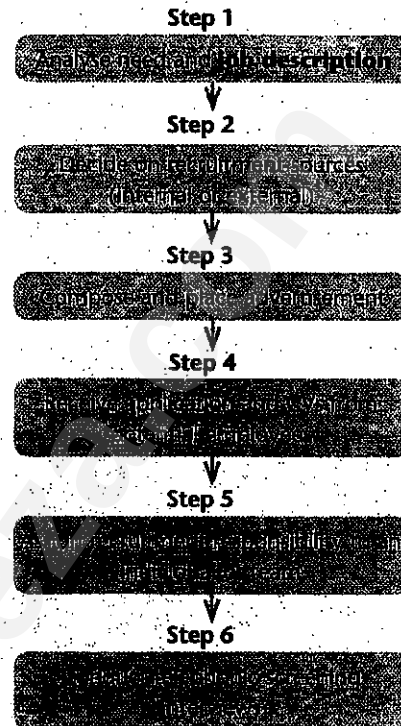
headhunting – the practice of actively looking for new employees, especially professionals or executives, by targeting specific individuals known in the industry and/or working for competitors

professional associations – groups of professionals in a particular industry, e.g. editors' association

networking – supportive system of sharing information and contacts among people who have a common interest, e.g. Human Resources employees who meet to discuss industry issues and contacts

Recruitment procedure

The recruitment process starts with the decision to create a job opportunity, continues with a collection of **applications** and **curriculum vitae** (CVs) from the potential employees, and ends with the appointment of an employee. Some businesses employ a recruitment team to phone applicants for a pre-screening telephone **interview**, as a way of narrowing the list of applicants.



KEY WORDS

applications – written request for a job

curriculum vitae – a description of the person's academic and professional career path to date

interview – arranged meeting with a job applicant to evaluate their suitability for the job

job description – summary and outline of the requirements of a specific job, including tasks, responsibilities, deliverables

background check –

investigation into the previous activities and records of an applicant

ethical – related to morals and right or wrong conduct, e.g. an ethical responsibility to manage finances honestly

2.2 Selection

Companies follow different selection procedures depending on the type of job advertised, the level of the job, the size of the company, and/or their internal human resources processes, among other factors. The more senior the job (e.g. Sales Director or Marketing Manager), the more complex the process of selection may become. Additional elements are often added to the selection process if a particular job requires it. For example, applicants for the post of police officer or law enforcement agent may have to undergo a **background check** to ensure that they do not have a criminal record. Applicants for the position of Financial Manager, a position with serious financial and therefore **ethical** responsibilities, may also have their backgrounds checked. A position with ethical responsibilities may also be carefully checked.

1. Sort applications

Sort the applications received according to the criteria for the job. If the advertised job requires a specific qualification, e.g. in plumbing, all applications with the relevant qualification certificate should be grouped together and those without proof of the qualification should be eliminated from the selection process.

2. List candidates

Make a list of all applicants who qualify for the job.

3. Screen and check references

Do background, credit and reference checks of applicants who qualify for the job. Check their criminal records, credit history and social media and networking sites (e.g. Facebook). Contact the people listed on the CVs as referees and ask about the applicants' character traits and work ethic.

4. Conduct preliminary interviews

If many good applications were received, have pre-interviews to sift out applicants who qualify for the job, but who might not be suitable for your work environment.

5. Test applicants

It is useful to test applicants. An applicant for a senior management position could, for example, be given the **Myers-Briggs personality test**. This is an example of a test which provides an idea of how the applicant interacts in a work environment. Some industries require candidates to take a medical screening.

6. Compile a shortlist

A shortlist of approximately five people is compiled from the longer list of suitable applicants. Interviews are arranged with shortlisted candidates.

7. Interview

The main interview takes place. The interviewing team has a list of pre-set questions that they pose to all the candidates to be able to compare the candidates on equal criteria.

KEY WORDS

Myers-Briggs personality testing – a test that groups personalities according to sixteen possible personality types

2.3 Interviewing



Interviews need to be carefully planned in advance.

The interviewer must know:

- what the business is looking for in the **candidate** (skills, knowledge, personality)
- what the job entails
- what questions they want to ask the candidate
- what type of responses they would ideally like from the candidate
- about the candidate (read their CV before the interview)
- the time allocated for each interview – and stick to the time.

2.3.1 Interview procedure

An interview has four steps.

Step 1

Establish an initial link and communication. This is when the interviewer forms an **impression** about the candidate. First impressions count a lot.

Step 2

Gather the necessary information. The interviewer uses this time to ask key questions and collect relevant information to be able to make an informed decision.

Step 3

Allow questions: The final step of the interview is a time when the candidate should be allowed to ask questions about the position or company.

Step 4

Close the interview. Thank the candidate for attending the interview.

KEY WORDS

candidate – a person who applies for a job

interview procedure – the steps and activities involved in interviewing a candidate

impression – the first or immediate effect

body language – the communication of feelings or responses by means of conscious or unconscious body movements, e.g. an anxious candidate might tap his foot

2.3.2 Key aspects to a good interview

- Each interview should follow the same process, with the same questions to provide equal opportunities for applicants.
- An interview panel conducts the interview rather than only one person.
- The interview process does not allow for discrimination against race, gender or age, but rather seeks the best candidate for the job.
- Creative and relevant questions challenge the applicants.
- The interview panel studies the **body language** and behaviour of the applicants.
- The interview panel does not make immediate judgements or decisions until all the candidates have been interviewed.

ACTIVITY 1: DEFINE AND INTERVIEWING

1. Define the following terms:
 - 1.1 recruitment
 - 1.2 selection
 - 1.3 interviewing. (6)
2. Compare the procedures and processes involved in recruitment, selection and interviewing. Draw a table with three columns for your comparison. (12)
3. Your friend is just about to go for an interview for a job that she really wants to get. Discuss the process with her and advise her on the key aspects for a good interview. Provide examples in your answer. (20)

KEY WORDS

contract of employment – the written document that sets out the employment agreement between employer and employee
letter of appointment – a letter that advises the candidate that he or she has been successful and had been given the job
negotiable – terms of employment that are agreed through discussion and will vary from one employee's contract to another
probation period – the period of time in which the business assesses employees' suitability for the job before confirming their appointment

2.4 Contracts of employment

Once a suitable candidate has been selected and offered the position, an employment contract needs to be drawn up between the employer (the business) and the employee (the person who will now work for the business). Before drawing up the contract, Human Resources will discuss the details of the salary package and the detailed conditions of employment with the employee. The employee will receive a **letter of appointment** from the business.

A contract of employment is a legally binding written agreement between the employer and the employee. Certain aspects of the contract are **negotiable**. Once the terms and conditions of employment have been agreed upon, the employee signs the contract. A **contract of employment** usually contains the following:

- personal details of the employee (name, postal and physical address)
- details of the employer (name and business address)
- job description and title
- working hours
- salary package
- leave
- termination of contract
- overtime
- benefits.

Many contracts include a **probation period**. This is a trial period (often 3 months) to see if the new employee is suitable for the position. If the probation period is successful, the candidate becomes a permanent employee.

2.5 Induction and placement

2.5.1 Aims and process of induction

The aim of an induction programme is to introduce the new employee to the business, work environment and the organisational culture, rules and regulations.

Some companies have an informal induction process while others set up a formal training and induction programme. By the end of the induction programme or period, the employee should be completely familiar with the processes and procedures of the organisation and have a basic knowledge of what is expected in the job.

KEY WORDS

productivity – the rate at which goods are produced or services provided
motivation – positive reasons for behaving in a certain way, e.g. being productive

An induction programme also allows new employees to ask questions about where to park, how to report when they are ill, what the dress code is and how performance management will be done.

2.5.2 What to include in an induction programme

Induction programme

- tour of the premises and introduction to key people and close colleagues
- conditions of employment including working hours, leave application process and disciplinary procedures
- administrative details including systems, processes and logistics (ordering stationery, telephone codes, operating equipment, etc.)
- safety regulations - evacuation procedures, smoking restrictions, etc.
- job discussion on what is expected and how to perform daily tasks

2.5.3 Benefits of induction

- increases quality and **productivity**
- increases **motivation**
- allows new employees to settle in and work effectively immediately
- ensures that everyone understands rules and restrictions in the business
- minimises the need for ongoing training and development.

Companies should provide ongoing support to new employees to ensure that they settle as quickly as possible to be productive.

2.5.4 Placement

Placement matches the ideal candidate to a specific position. This happens after the interview has been conducted and a position is offered or while the employee is already in a position at the organisation.

Placement is crucial to the success of the business. Incorrect placement can happen because an employee does not have the right skills or personality for a job, or when an employee shows potential but fails to learn the requirements of a new job.

Human Resources and line managers must support the placement process by providing the necessary induction and ongoing support throughout the probation period to employees who are newly placed in a position.

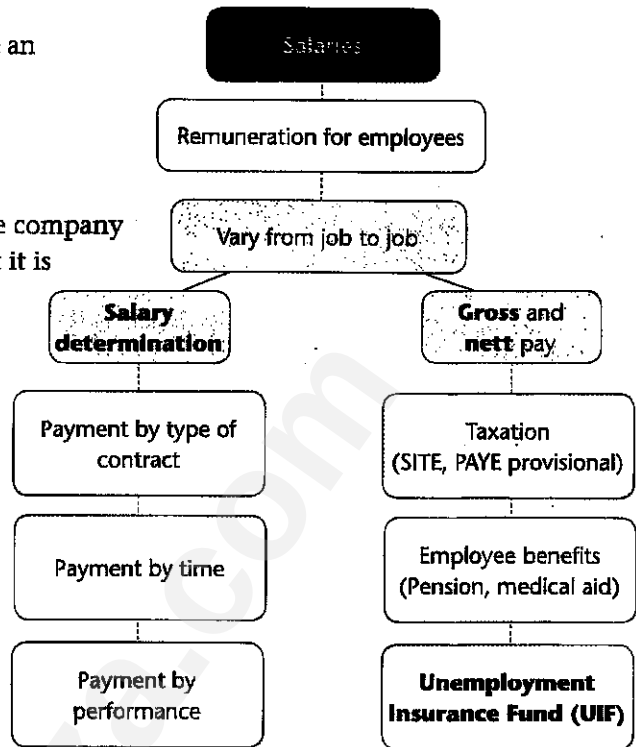
Depending on the complexity or level of the job, this support might need to continue after the end of the probation period.

2.6 Salaries and benefits

Salaries vary from job to job. Many different factors determine an employee's salary:

- type of job (**skilled** versus unskilled or semi-skilled)
- educational and professional qualifications
- experience in the workplace
- skills, knowledge and potential to grow and develop in the company
- number of suitable candidates available (the more difficult it is to find a suitably skilled employee, the higher the salary)
- level of the position (senior management positions would earn more)
- external mechanisms and regulations (trade unions put demands on certain industries in terms of salaries)
- the financial state of the company and the economic situation of the country
- the benefits included in the package.

Many employees earn a salary package, which includes the cash component of their salary as well as benefits. These benefits are paid by the business over and above the cash component of the salary and could include medical aid contributions, pension fund contributions, travel allowances, car allowances and cellphone allowances.



ACTIVITY 2 APPLY YOUR HUMAN RESOURCES SKILLS

1. Match the correct term in column A with the description in column B. (20)

Column A	Column B
1.1 Human Resources	A. process of choosing a new employee
1.2 Gross	B. looking for the right person for the job
1.3 Remuneration	C. department responsible for hiring of staff
1.4 Selection	D. fixed amount earned on a monthly basis for doing a job
1.5 Interview	E. payment received in exchange for doing work
1.6 Recruitment	F. another term for a staff member
1.7 Salary	G. process of informing and training a new employee
1.8 Employee	H. total salary before deductions
1.9 Induction	I. a formal discussion to establish information about a person
1.10 Contract	J. legal document that outlines the conditions of employment

2. You are the Human Resource Manager of a business, and have three staff members starting in their new positions. Develop an induction programme for the three new employees. Provide examples in your answer. (12)

KEY WORDS

skilled – refers to the level of work and the expertise possessed by an employee, e.g. lawyers are skilled workers, and domestic workers are considered unskilled workers because they need no qualifications to do the work

salary determination – the process of deciding what salary an employee should receive, based on factors such as type of contract, time worked, products or services delivered

gross pay – pay received before deductions

nett pay – payment received after all deductions, such as tax, UIF, pension fund, medical aid

UIF – Unemployment Insurance Fund contributions made by employer for and on behalf of employee

Human Resources policies and legal requirements

KEY WORDS

legal requirements – obligations, processes and procedures that are governed by law
unfair discrimination – basing a decision on factors such as race, gender, disability without a fair and right to do so

Labour Relations Act

LRA

Promotes equity and democracy by ensuring the implementation of employment equity and prevention of **unfair discrimination**

Processes and procedures

Fair process of employing and dismissing employees

Rights and responsibilities of trade unions

Procedures for strikes, collective bargaining and dispute resolution

Unfair treatment in the workplace

Codes of good practice

Encouragement of worker participation in decision making

The Government put certain policies in place to ensure that labour practices, and therefore human resources practices, are fair and equitable. Businesses have to follow these policies and carry out the necessary legal procedures when hiring, disciplining and dismissing staff.

2.7 Labour Relations Act (LRA) No. 66 of 1995

The Labour Relations Act (LRA) No. 66 of 1995 was established by the Department of Labour and the CCMA to ensure fairness in the workplace.

The Labour Relations Act outlines terms and conditions that apply to both employers and employees.

The Act promotes equity and democracy by ensuring the implementation of employment equity and the prevention of unfair discrimination.

It aims to promote economic growth and development and to expand the workforce to become more diverse and representative of South Africa.

The Act applies to current employers and employees as well as jobseekers and former employers and employees.

It gives the employee a guide on what is fair and unfair in the workplace and how to deal with the situation correctly.

Some of the key issues covered by the Act, and which will impact human resources practices and policies, are:

- fair processes for employing and dismissing employees
- rights and responsibilities of trade unions
- procedures for strikes, collective bargaining and dispute resolution
- unfair treatment in the workplace
- codes of good practice
- encouragement of worker participation in decision making

ACTIVITY 3 DISCUSS THE LABOUR RELATIONS ACT

1. Discuss the LRA's impact on HR policies and practices by creating a table with the following headings:
 - 1.1 The main aim of the LRA (2)
 - 1.2 The benefits for employees (3)
 - 1.3 The benefits for and responsibilities of employers (3)
2. Describe any one way the LRA could encourage worker participation in decision making, using examples. (6)

2.8 Basic Conditions of Employment Act (BCEA) No. 75 of 1997

The Basic Conditions of Employment Act sets out conditions that ensure fair labour, and therefore human resources, practices. It specifies the details and conditions of employment and applies to all employers and employees. The Act deals with **casual**, **temporary** and **permanent employees** and **independent contractors**.

Some of the key processes and procedures are discussed below. In all instances, Human Resources is responsible for ensuring that all the company's policies and practices are aligned to the requirements of the Act. In addition the HR department is responsible for proper administration and recordkeeping.

2.8.1 Working time

Working time indicates the maximum number of hours per day and outlines breaks to which the employee is entitled. The Act also discusses overtime, where workers are compensated for time spent working outside their specified working hours. Compensation on Public Holidays and Sundays are not at the same rate as compensation for normal working hours. We discussed the exact rates that apply in Chapter 1. Refer back to that to refresh your memory.

2.8.2 Leave

Annual leave refers to the number of days paid leave allocated to an employee per year. An employee is entitled to a minimum of 1 day for every 17 working days.

Sick leave is when an employee worker needs to take time off from work due to illness. A worker can take up to thirty days' paid leave in a 36-month cycle.

Maternity leave is four months and can start up to a month before the baby is due. The employer does not have to pay the employee while she is on maternity leave.

Family responsibility leave may be taken if a child is ill or there is a death in the family. An employee may take up to three days' paid family responsibility leave per year.

2.8.3 Legalities of employment contracts

Once the HR manager and/or line manager has selected the successful applicant and the applicant has accepted the employment offer, the applicant will be given a letter of appointment and asked to sign a contract of employment.

Key elements

Contracts of employment are always written down. They are legal documents that are binding on both employers and employees. In terms of a contract of employment, an employee agrees to:

- Place his or her services at the disposal of the employer
- In a specific role
- To perform specific duties and to adopt specific responsibilities
- For a specified period of time (for **fixed-term contract** employees)

KEY WORDS

casual employee – a person who is employed on an ad hoc basis

temporary employee – a person who is employed for a fixed term

permanent employee – a person who is employed indefinitely

independent contractors – persons or juristic persons who provide specific services and are not employees, e.g. consultants

Basic Conditions of Employment Act

BCEA

Specifies the details and conditions of employment and applies to all employers and employees

Processes and procedures

Working time

Leave

Legalities of employment contracts

Salary determination

Gross and nett pay

Taxation

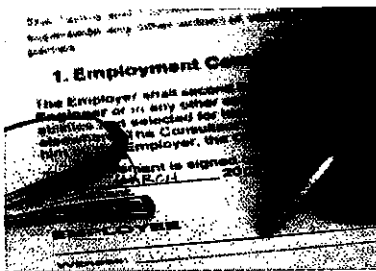
Employee benefits

Termination of contract

Child labour

KEY WORDS

fixed-term contract – an employment contract that has a clear start and end date
legally binding – governed by law and giving rise to legal rights and obligations



- The employer agrees to
- Pay a specific wage; or
- Salary package, including specific benefits
- Only expect of the employee the duties and responsibilities outlined in the contract and accompanying job description, and which are in line with the BCEA
- Provide notice of termination within a period specified in the contract

Details in employment contracts

The written employment contract must contain the following details:

- Names and addresses of the employer and employee
- Job title
- Normal place of work
- Starting date
- Nature and hours of work
- Leave conditions (annual, sick leave, family responsibility)
- Agreements the business has with trade unions
- Salary and staff benefits such as pension and medical aid schemes
- The length of notice to be given by either party.

The contract is **legally binding**, which means that both employer and employee have a legal right to expect that the conditions of the employment contract will be fulfilled. The contract of employment may not contain any requirements that are in conflict with the basic conditions of employment as set out in the BCEA.

Aspects of the employment contract can be renegotiated during the course of the employment relationship. Negotiation means that both employer and employee must be satisfied with the changes to the employment contract. Neither the employee or the employer may unilaterally change aspects of the employment contract.

In addition to the job description and basic conditions listed above, an employment contract can also include the following:

- A Code of Conduct
- A code of ethics
- Information technology policies

Human Resources is always involved in drafting contracts of employment. Most large businesses have a standard form of employment contract which is adapted for specific jobs. If the terms and conditions of the employment contract require explanation, Human Resources will do so. Therefore, Human Resources employees must thoroughly understand the internal policies that are included in employment contract and the legal requirements.

ACTIVITY 4: ANALYSE AN EMPLOYMENT SCENARIO

Read the scenario below and answer the questions that follow.

John is offered a job with a small company that makes bricks. The position he is offered is that of bricklayer. The day after the interview, the foreman he will be reporting to, phoned him on his cell phone and said: "You got the job. Can you start tomorrow? We

will pay you R150 per day." John accepted the offer and worked for the company the next day. He worked 10 hours per day for three months, including Saturdays. He earns R150 per day for each day worked. He never meets the Human Resources manager and learns how to make the bricks by watching what other employees do.

1. Advise John on the legality of his employment contract. (4)
2. If John was to sue the company for unfair labour practices, would he win and why? (4)

2.8.4 Salaries

Different systems are used to pay employees. The system will depend on the type of job and/or the nature of the employment contract.

Payment by type of contract

Salaries are based on whether the employee is permanent or employed on a fixed-term contract. A permanent employee would normally receive a fixed salary every month. A fixed-term contract employee is either paid piecemeal, which means they are paid per job, or they can be paid on a weekly or monthly basis. Some employees start out in contract positions and then get a permanent position when they have proven themselves.

Payment by time

Remuneration paid on an hourly or weekly basis is referred to as a wage and is mostly used for unskilled labour positions. Businesses that pay on an hourly basis usually monitor hours worked with a system whereby employees clock in and out of the business.

Payment by performance

Some employees earn commission, which is a payment made related to their performance. For example, property agents earn commission on every property they sell. This is calculated as a percentage of the sales price.

Many businesses offer their employees bonuses. These are normally at the end of the year or in the month of the employee's birthday. Some businesses offer performance bonuses as an incentive. An example of this is where a certain sales division in the company reaches their half-year target, and all the staff in that division then receive a performance bonus.

Gross and nett pay

$$\text{Gross salary} - \text{Deductions} = \text{Nett Salary}$$

The salary that is given by the employer is the gross salary. This is the total amount of money before any deductions have been made. The nett salary is the amount of money that employees take home, or the amount deposited into their bank accounts. This is the salary after taxation, medical aid, UIF (Unemployment Insurance Fund), pension and other benefits have been deducted.

KEY WORDS

SITE – Standard Income Tax on Employees; no longer applicable from 1 March 2014

PAYE – Pay-as-you-earn; tax payable by most employees on a monthly basis

Provisional tax – tax paid on earnings other than employment earnings, e.g. royalty earnings, interest
annuity – a fixed amount paid at regular intervals for a particular period, normally from earnings on an investment such as a retirement fund

Anyone that earns any form of income is required to register with SARS (South African Revenue Service). There are different forms of taxation for employees. The form of taxation is determined by how much the employee earns, when the tax payment is made and by whom. Those who earn less than R60 000 per year are not required to pay tax.

SITE (Standard Income Tax on Employees)

SITE tax is being phased out and will no longer be applicable from 1 March 2014.

PAYE (Pay as you earn)

PAYE is deducted each month from the employee and paid to SARS by the employer. PAYE ensures that tax is paid as the income is earned so that the employee is not faced with a huge bill at the end of the tax period.

Provisional tax

Provisional tax payers pay tax to SARS twice a year: six months into the tax year and then at the end of the tax year. Provisional tax is paid by people who earn money from rent, from running a business, earning royalties, earning interest, or any other income that is not a salary or a wage. They are required to estimate how much they will earn in the year and use that figure to calculate the tax due. Provisional tax should be calculated every six months before the SARS deadline, based on an estimate your year's earnings. If your estimate is less than what you actually earned, you will have to pay in, but if you estimate more than what you have actually earned, SARS will pay you back.

2.8.5 Employee benefits

Many employees earn a salary package, which includes their salary as well as benefits. The company sometimes pays these benefits in full and sometimes the employee pays a portion. Some benefits are tax deductible, in full or partially, such as medical aid, pension, unemployment insurance and any donations that have been made on behalf of the employee. Benefits that are not tax deductible are discussed under Allowances.

In all instances though the HR department is responsible for ensuring that the correct deductions are made and the monies are paid over to the relevant organisations (e.g. SARS or the medical aid) timeously.

Pension

A certain amount of money is placed in a pension fund or retirement **annuity** fund every month. This money is then paid out in monthly instalments or as a lump sum when the employee retires.

Medical aid

An amount of money is placed in a medical fund or medical insurance scheme. When the employee requires medical attention or hospital expenses need to be paid, this fund pays the medical expenses in full or a portion thereof. The amount that is covered by the medical aid depends on the monthly contribution and the

rules of the medical aid scheme. Payments made to recognised medical aid schemes are not taxed.

KEY WORDS

statutory – determined by law
allowance – a sum of money provided for a particular purposes
redundant – no longer needed

Unemployment Insurance Fund (UIF)

This is a **statutory** amount that every business pays for each employee. The employee is only required to pay half of the amount as the business pays the rest. UIF is a monthly payment of 2% of the total income earned. The employee and employer each pay 1%. The fund benefits employees that lose their jobs, or are unable to work because of illness, pregnancy or adoption. The fund also pays dependants if the employee dies.

Allowances

Some companies offer their employees car, cellphone, computer and travel **allowances**. These amounts do not always have tax benefits for the employee (in other words, the employees are taxed on the value of these benefits). Employees are taxed to the extent that they use these allowances for personal reasons.



Sales representatives are often given car allowances as they have to travel for work.

2.8.6 Termination of employment

The Basic Conditions of Employment Act describes the processes and procedures for terminating the employment contract and outlines severance pay which is paid when employees are retrenched. The HR department is responsible for ensuring that the policies and processes are in line with the requirements of the Act and that there is fairness and no discrimination.

A contract can be terminated (ended) for a number of reasons:

1. resignation
2. dismissal
3. retirement
4. retrenchment

Resignation	Dismissal	Retirement	Retrenchment
This is when an employee chooses to leave the business. There should be a clause in the contract to specify the process of resignation and the length of the employee's notice period.	Employees can be dismissed (asked to leave) by the company on the following, among other, grounds: • misconduct • illegal behaviour, e.g. theft • not complying with the employment contract on a continuous basis, e.g. late for work	Retirement is when an employee reaches a certain age (normally 65) and does not have to work any more. Businesses need to plan ahead to ensure that they have suitable employees to fill the vacancies when employees retire.	Retrenchment occurs when businesses are forced to let employees go. This is normally for financial reasons, but it can also be as a result of the company closing down or when a particular job is redundant .

There are different legal requirements and processes for the various kinds of termination, as shown in the diagram below.

Resignation process

1. Letter of resignation to management
2. Management accepts resignation
3. Employee works out notice period (usually between one to three months)

Dismissal process

There are strict regulations in South Africa on the procedures that a business must follow for dismissal. The employer needs to give the employee at least three written warnings and even after that, the employee can appeal the decision through the CCMA (Commission for Conciliation, Mediation and Arbitration).

Retirement process

There is no legal retirement age in South Africa. The contract of employment must state the retirement age. If the retirement age is not agreed in writing, then an employee who is forced to retire at a certain age may have legal cause to cite unfair dismissal on grounds of discrimination on the basis of age.

At retirement, all the employee's benefits must be paid (e.g. pension fund contributions) as well as all outstanding pay (e.g. leave pay).

Retrenchment process

Retrenchment is a legal process and the business must consult employees before retrenching them.

Once agreement has been reached, the employer must provide notice of termination and agree on severance pay.

The employee will work out the notice period.

2.8.7 Child labour

The Basic Conditions of Employment Act states that it is illegal to employ children under the age of 16 to work. Anyone who does so will be penalised. Businesses and individuals who employ children who are under the age of 16 may be liable to criminal prosecution and/or a fine.

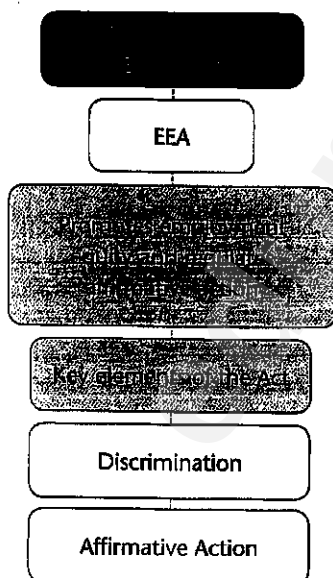
ACTIVITY 5: SUMMARISE THE BASIC CONDITIONS OF EMPLOYMENT ACT

Summarise the impact of the Basic Conditions of Employment Act on HR policies and activities under the following headings:

1. The main aim of the BCEA (2)
2. The benefits to employees (4)
3. The benefits to employers (4)

2.9 Employment Equity Act (EEA) No. 55 of 1998

The Employment Equity Act was put in place in 1998 to redress the imbalances of the past in South Africa. The Act promotes employment equity and regulates affirmative action.



The Act addresses discrimination and identifies the items listed below. In businesses that have HR departments these processes and procedures are overseen and contributed to by the HR manager.

Discrimination

- elimination of unfair discrimination in recruitment, selection, placement, promotion, performance management and termination procedures
- fair testing and assessment of employees and applicants
- legally addressing matters relating to unfair discrimination

Affirmative Action

- identifies which employees fit this category
- identifies the obligations of the employer
- identifies duties of the employee
- ensures compliance and address income differences

KEY WORDS

affirmative action – fair discrimination on the basis of factors such as race, gender and disability that aims to redress past inequalities

The Act requires businesses to have an Employment Equity Plan as a code of good practice.

ACTIVITY 6: ANALYSE A RECRUITMENT SCENARIO

Read the scenario and then answer the questions that follow.

Botho applies for a job with Mpumalanga Financial Services (Pty) Ltd as an investment consultant. She is shortlisted for an interview and meets the HR manager and line manager. During the course of the interview the line manager asks her if she thinks a woman is capable of selling investments to male investors. At the end of the interview, the HR manager asks her to complete a personality test. The personality test is in Afrikaans. Botho advises the HR manager that her knowledge of Afrikaans is weak. The HR manager tells her they only have the test available in Afrikaans. Botho does her best to complete the test but doesn't understand all of the questions.

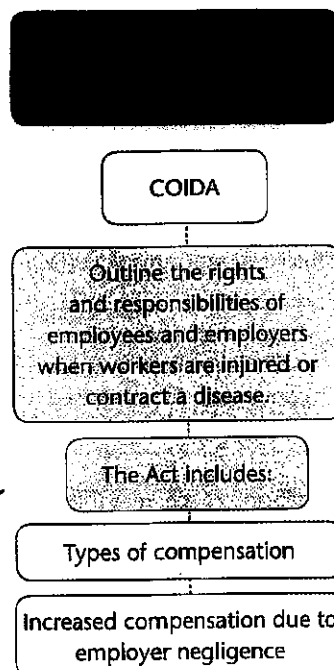
1. Was the interview process fair? Give reasons for your answer. (6)
2. If Botho is not appointed, would she be able to sue the company for unfair discrimination? Explain your answer. (4)

2.10 Compensation for Occupational Injuries and Diseases Act (COIDA) No. 61 of 1997

The Compensation for Occupational Injuries and Diseases Act outlines the rights and responsibilities of employees and employers when workers are injured or contract a disease. This entitles the employees to compensation. The employers pay into this fund every month. Money cannot be deducted from employees for this fund, as it is not the responsibility of workers to pay it.

The amount of compensation they receive will depend on:

- the seriousness of the injury or disease
- how responsible the employer was for the injury or disease



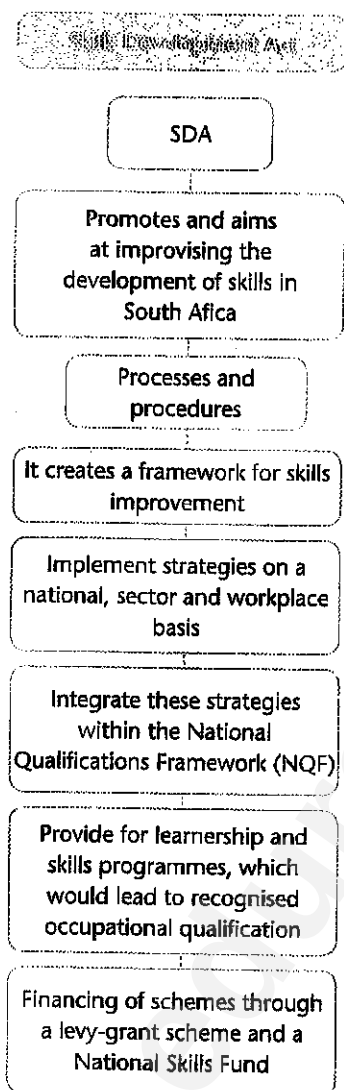


This Act applies to all employees: casual, permanent, fixed-term, full-time and/or part-time.

The Act includes

- types of compensation paid to employees, e.g. temporary disablement, permanent disablement and fatalities and medical expenses
- increased compensation due to employer negligence
- claiming procedure

When employees are injured during the course of their work duties, the HR department will assist them in making a claim from the Compensation Fund and provide evidence as required. Should the Compensation Commissioner decide that the employer was negligent, the HR department may be required to ensure that changes are made in the workplace to ensure that this doesn't take place in the future. HR departments also generally provide information and training to managers and owners regarding what are safe and healthy business practices and working environments. They are therefore a key department in ensuring workplace health and safety, and in preventing accidents in the workplace.



ACTIVITY 7 SUMMARISE THE OCCUPATIONAL INJURIES AND DISEASES ACT

Summarise the impact of the Occupational Injuries and Diseases Act on HR policies and practice under the following headings:

1. Rights of employees (4)
2. Processes: contributions, claiming and compensation (4)

2.11 Skills Development Act (SDA) No. 97 of 1998

The Skills Development Act No.97 of 1998 is one of the pieces of recent legislation that was developed in response to the demand for redress and equity. It has a strong impact on both small and large businesses. It aims to develop and improve skills, productivity and competitiveness in South Africa through practical implementation methods.

Given the Human Resources function's involvement in training and skills development, this Act has a huge impact on HR activities.

2.11.1 The purpose of the Skills Development Act

Create a framework for skills improvement

The framework for the National Skills Development Strategy aims to link learning to the demands of the world of work, develop skills of existing workers and enable businesses to become more productive and competitive. The HR function must interpret the aims and requirements of this framework and adapt workplace skills training accordingly.

Implement strategies on a national, sector and workplace basis through the Sector Education and Training Authorities (SETAs)

Sector Education and Training Authorities (SETAs) have been set up to implement the National Skills Development Strategy, which aims to increase the skills of people. There are currently 27 SETAs representing 27 different industries. The money from a particular business will go to the SETA that represents the industry into which the business falls, for example there is a SETA for agriculture, one for banking and one for wholesalers and retailers.

Integrate these strategies within the National Qualifications Framework (NQF)

The NQF provides for a system of credits for achieving **learning outcomes** through an integrated national framework of learning achievements. It is designed to facilitate access to and mobility within training and career paths. It also is a means of accelerating redress of past discrimination in education and employment opportunities.

The development and implementation of the NQF is overseen by the South African Qualifications Authority (SAQA). The HR function now has a clear and equitable framework within which to assess the skills levels of employees.

Provide for learnerships and skills programmes which would lead to a recognised occupational qualification

Learnerships were introduced as a way of providing practical job experience while studying. The learner works for the employer while attending class. There is a theoretical and practical component and the result of the qualification is recognised by SAQA. Businesses receive compensation from the government for participating in learnerships. The HR function is therefore responsible for keeping records of this participation and submitting it timeously.

A skills programme is a **mini learnership** and is often part of in-service training. The learner/employee receives training on certain **unit standards** and in return receives credits for these unit standards. The combination of all of the unit standards can amount to a SAQA qualification. The HR function plays a key role in growing the skills of employees by helping managers and owners to identify skills needs and by helping to implement learnerships. This is a benefit to both employers and employees.

Finance schemes through a levy-grant scheme and a National Skills Fund

- **Skills Development Levy:** The payroll department is responsible for administering the financial requirements of the SDA and for paying over the monies collected or claiming back monies due in terms of the schemes. According to the Skills Development Act all registered companies who have an annual salary bill of more than R500 000 have to contribute 0,1 % of their salary bill to the Skills Development Levy. Businesses have to calculate and pay the levy

KEY WORDS

integrate – to bring together or join parts into a whole
learning outcomes – the results of learning, e.g. skills or knowledge
learnerships – theoretical and practical training opportunities that can lead to a recognised occupational qualification
unit standards – segments of qualifications approved by SAQA



- **Levy Grant Scheme:** Businesses can apply to get back 50 % or more of the levy that they paid from their SETA or from the National Skill Fund if they follow the steps below.
 - Appoint a full-time, or part-time person or a consultant as a Skills Development Facilitator
 - The facilitator must develop and implement an annual workplace skills plan for the business.
 - The facilitator must submit an annual training report.
 - The facilitator must ensure that employees' skills are developed through courses, training studies, and other approved initiatives.

ACTIVITY 8 SUMMARISE, EXPLAIN AND EVALUATE THE SKILLS DEVELOPMENT ACT

The Skills Development Act provides for workplace training and the payment of levies to facilitate skills training in South Africa.

1. Summarise the key aspects of the SDA that are administered by HR departments. (6)
2. Explain and evaluate the importance of the National Skills Fund in developing the skills of workers. (4)

ACTIVITY 9 SUMMARISE, EXPLAIN AND EVALUATE EMPLOYMENT LEGISLATION

1. The table below list the main Acts in South Africa that regulate employment. Complete the table by filling in the main aim of each of these Acts. and its impact on HR policy and practice.

	Main aim and impact
Labour Relations Act (LRA) No. 66 of 1995	
Basic Conditions of Employment Act (BCEA) No. 75 of 1997	
Employment Equity Act (EEA) No. 55 of 1998	
Compensation for Occupational Injuries and Diseases Act (COIDA) No. 61 of 1997	
Skills Development Act (SDA) No. 97 of 1998	

(10)

2. Use the main aims that you have described in the table, as well as the advantages and disadvantages (impact) of each Act, and create a poster that will help new employees understand the importance of legislation in the business environment. (20)

Human Resources function

UNIT 1: Analysis of Human Resources activities and procedures

- The Human Resources department is responsible for the following functions related to the employees of a company:
 - recruitment, interviewing and selection
 - procedures for screening, placement, and induction
 - legal issues including employment contracts
 - salary administration and employee benefits.
- Recruitment is the process used by businesses to attract people to apply for vacant positions in the business.
- A contract of employment is a legally binding written agreement between the employer and the employee.
- The aim of an induction programme is to introduce the new employee to the business, work environment and the organisational culture, rules and regulations.
- Salaries vary from job to job. Many factors determine an employee's salary including type of job, educational qualifications, professional experience, the employee's skills and knowledge, and the number of suitable candidates for the job.

UNIT 2: Human Resources policies and legal requirements

- The Labour Relations Act (LRA) No. 66 of 1995 was established by the Department of Labour and the CCMA to ensure fairness in the workplace.
- The Basic Conditions of Employment Act (BCEA) sets out conditions that ensure fair labour practices. It specifies the details and conditions of employment and applies to all employers and employees.
- The Employment Equity Act was put in place in 1998 to redress the imbalances of the past in South Africa. The Act promotes employment equity and regulates affirmative action.
- The Compensation for Occupational Injuries and Diseases Act outlines the rights and responsibilities of employees and employers when workers are injured or contract a disease, including compensation.
- The Skills Development Act No.97 of 1998 was developed in response to the demand for redress and equity.

SECTION A**QUESTION 1: MULTIPLE CHOICE**

Choose the correct answer and write only the letter next to the question number.

- 1.1 Which of the following will most likely be used to calculate the tax payable by the financial manager of a company?
- SITE
 - PAYE
 - VAT
 - Capital Gains Tax

- 1.2 Which Act addresses the amount of leave that an employee is entitled to?
- Labour Relations Act No. 66 of 1995
 - Basic Conditions of Employment Act No. 75 of 1997
 - Employment Equity Act No. 55 of 1998
 - Compensation for Occupational Injuries and Diseases Act No. 61 of 1997

- 1.3 Which of the following is a fund that receives a monthly amount from employees and employers as an insurance premium in case an employee loses their job.
- Compensation for Occupational Injuries and Diseases Fund
 - Capital Gains Fund
 - Unemployment Insurance Fund
 - Unemployment Fund

(3 × 2 = 6)

QUESTION 2: MATCH THE COLUMNS

Match the most appropriate term in column B with the situation in column A.

Column A	Column B
2.1 This forms part of the company's transformation plan.	A. Training
2.2 Jane works for a company while attending classes in the evenings.	B. Recruitment
2.3 TS Africa has been told that he has to find the best person for the job.	C. Dismissal
2.4 Mr Peter feels that he has been treated unfairly because of his disability.	D. Affirmative action
2.5 Mrs Sheller has reached 65 years of age and is given a farewell party by her colleagues.	E. Retirement
2.6 A new machine has arrived on the factory floor and no-one knows how to use it.	F. Learnership
2.7 Aggie has had three written warnings for being late for work.	G. Discrimination

(2 × 7 = 14)

QUESTION 3: WRITE PARAGRAPHS

Discuss how each of the following employment Acts impact on both the employer and the employee:

- Labour Relations Act (LRA) No. 66 of 1995
- Basic Conditions of Employment Act (BCEA) No. 75 of 1997
- Employment Equity Act (EEA) No. 55 of 1998
- Compensation for Occupational Injuries and Diseases Act (COIDA) No. 61 of 1997

(8 × 2 = 16)

[36]

[24]

SECTION B

Circuit Supplies 122 7th Avenue, Durban Monthly	
Payslip number 0327 Employee J. Zulu Identity number 7201220105008	Page 1/1 Pay period 01/03/2014 – 31/03/2014

Description	Units	Earnings	Deductions
Basic pay		38 000,00	
Medical aid			2 660,00
Pension			3 040,00
UIF employee contribution			380,00
Taxation			7 250,00
		38 000,00	13 330,00
Nett pay		R24 670,00	
Payment will be made by direct transfer to bank account. Payment will be made on 25/03/2014			

QUESTION 4: (BUSINESS OPERATIONS) SHORT ANSWER QUESTIONS

Study the payslip above and answer the questions that follow.

Jonah Zulu works for Circuit Supplies in KwaZulu Natal and earns a monthly salary of R38 000. By the time the salary is put into Jonah's bank account, it is nearly half of the amount he thought that he earned.

- 4.1 Use the payslip to explain to Jonah where the rest of his money has gone. (6)
- 4.2 What is another term used for the full amount of R38 000, that is called 'basic pay' in this payslip? (2)
- 4.3 What is the term used for the amount that will be placed in his bank account after the deductions have been taken off? (2)
- 4.4 Discuss the two compulsory payments and what they are for. (8)
- 4.5 Discuss the importance of belonging to a Medical Aid. (2)
- 4.6 If Jonah was not happy with the way his salary was determined, which Act could he refer to for the legal requirements? (2)
- 4.7 What is the purpose of the Act mentioned in 4.6 above? (2)

SECTION C

QUESTION 5: LONG ANSWER QUESTION: CASE STUDY

Read the case study below and answer the questions that follow.

As the new Managing Director of the company, you have discovered that the company lacks the skills and suitably qualified employees to perform the functions required by the company. You have been asked by the Board to improve the productivity and the sales of the company and have been given specific targets. You realise that the only way to reach your targets, is to improve the skills of the current employees and to set up a good recruitment and selection process for new employees.

Discuss how you will present your solution to the Human Resources Department and give them clear guidelines on how they should go about carrying out these processes. Include the impact of the relevant Acts in your discussion. Use examples in your presentation.

[40]

Total marks: 100

3 Professionalism and ethics

- UNIT 1: Professional and ethical business practice
- UNIT 2: Issues that could challenge professional and ethical behaviour

Professional and ethical business practice

In Grade 10 and 11 you learnt about professionalism and ethics in various topics. In Grade 12 you learn about how professional, responsible, ethical and effective business practice should be conducted in changing and challenging business environments.

3.1 Ethical behaviour in business practice

Ethics, in simple terms, means the moral principles that guide choices between right and wrong. In a business environment, the focus is on deciding what is right and wrong for the workplace or business as a whole. It is about the standards of conduct within an organisation.

Business ethics are the ethics of managers and executives, since they set the tone in the organisation. Managers and executives are sometimes criticised for their business ethics because of greed, **exploitation** of workers and consumers and their abuse of positions of trust.

KEY WORDS

ethics – the moral principles that guide choices between right and wrong
business ethics – ethics of the business as displayed by managers and executives
exploitation – benefit unfairly from others' work or money

Code of Ethics – a guide to enable employers and employees to make ethical decisions within the workplace or a broad statement of values and beliefs that define the organisation

ACTIVITY 1 DISCUSS AND CONDUCT INTERVIEWS ABOUT ETHICS

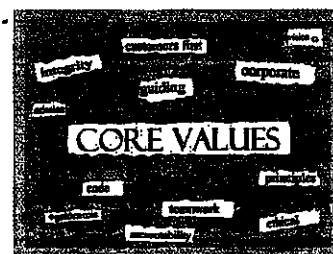
1. Discuss the importance of a code of ethics in a business environment. Provide an example to support your answer. (4)
2. Interview at least ten people. Create a separate table for each of the interviews using the following headings: Question, True or False, Reason for your answer. (8)

Question	True or False	Reason for your answer
1. Are business managers and executives greedy?		
2. Do business managers and executives exploit their workers?		
3. Do business managers and executives exploit their customers?		
4. Are business managers and executives trustworthy?		

3.2 Code of Ethics

Many business decisions are governed by legislation, but there remain other decisions to be made for which there is no legal framework. A **Code of Ethics** for the business is often drawn up as a guide to enable employers and employees to make ethical decisions within the workplace.

Businesses do not operate in a vacuum. They impact on society and the natural environment. A business should therefore be asking questions such as: What is the business for? What are our core values? Who should have a say in how the business is run? In other words, the business is not only about earnings for executives and



KEY WORDS

conflict of interest – one business interest should not “feed” off another, e.g. a person working in the department that deals with the official vehicles of the company, should not also be the owner of a second-hand car outlet that buys and sells vehicles to the company where he is employed full time

shareholders but also about ethical and sustainable value for the shareholders and the well-being of the employees.

The Code of Ethics is a broad statement of values and beliefs that defines an organisation. It covers different aspects of the business operation such as:

- the company's assets, funds and records
- **conflicts of interest**
- management and employee practices
- information on competition.

3.2.1 Ethical practices

Ethical practices explained



- Objectivity and impartiality – businesses should look at each situation's merits without becoming personally involved or biased.
- Transparency and full disclosure – deals must be conducted openly so that there is no question of dishonesty or corruption.
- Confidentiality – client and employee information must not be disclosed or used for the benefit of the business.
- Due care – the business must take all reasonable steps to ensure that nothing goes wrong.
- Avoiding conflict of interest – employees and shareholders must ensure that their personal interests and business interests do not conflict with one another.

KEY WORDS

due care – the care that a reasonable person would exercise under the circumstances

impartiality – fairness and lack of bias

transparency – openness

confidentiality – maintaining secrecy or privacy

- Being committed and responsible – employees and shareholders must give their best and make moral decisions.
- Care for the environment - businesses must consider the impact of businesses decisions on the environment.
- Abiding by national and international law – businesses must be knowledgeable about all relevant laws and operate according to them.

ACTIVITY 2 EXPLAIN AND REPRESENT ETHICAL PRACTICES

1. Ethical practices in an organisation have wide-reaching impacts on a number of groups of people. Indicate the impacts you think ethical practices will have on each of the groups mentioned below. (12)
Investors Employees Customers Competitors Government Environment
2. In groups of three or four, create a poster for a business identifying and explaining ethical practices in business. Make your poster colourful and attractive so that employees will be drawn to it to read it and understand ethical practices. (20)

3.3 Ethical and unethical business practice

3.3.1 Ethical business practice

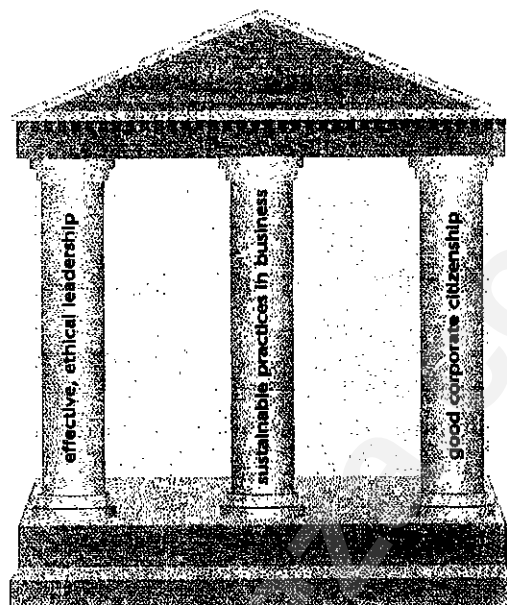
Judge Mervyn King chaired the first official committee on Corporate Governance. The result in 1994 was the **King Code** that sets out King's three pillars of good corporate governance.

- Effective, ethical leadership
- Sustainable business practices
- Good corporate citizenship

There are three versions of the King Code. The latest version is known as King III. The last two versions built on the first and expanded the three original pillars of good corporate governance.

Ethical business practice as contained in the King Code III can therefore be summarised as:

- ethical leadership and corporate citizenship
- the establishment of and rules governing a company board and directors
- **audit** committees
- governance of risk
- governance of information technology
- compliance with laws, rules, codes and standards
- internal audits
- governing **stakeholder** relationships
- integrating reporting and **disclosure**.



KEY WORDS

King Code – code of good practice in corporate governance developed by Judge Mervyn King in 1994; there are three codes, known as King I, King II and King III

corporate governance – rules that apply to individuals in a business who are responsible for managing the business; most applicable to executives and/or directors

audit – official inspection of business accounts

stakeholder – person or group that has an investment, share or interest in the business

disclosure – the act of disclosing, i.e. to make known, clear or to uncover something

dishonesty – not to tell the truth

The King Code is not enforced by law, but sections of the code have been incorporated into pieces of legislation. For example, many sections of King II form part of the Companies' Act of South Africa of 2008.

3.3.2 Unethical business practice

Unethical business practices and examples thereof are summarised in the table below.

Unethical practice		Examples
1	Dishonesty , trickery, deception	To hide the truth of the origins of products; re-labelling/re-pricing goods; old items sold as new
2	Distort facts to mislead or confuse	Using false figures in accounts
3	Manipulating people emotionally by exploiting their vulnerabilities	Advertisements that suggest you should buy now "before it is too late"
4	Greed to make excessive profit	Taking excessively large salaries when there is a recession



Unethical practice		Examples
5	Creation of false documents to show increased profits	"Creative" accounting to show increased profits to keep shareholders and SARS happy
6	Avoiding penalty or compensation for an unlawful act	Bribing relevant people to lie on your behalf to avoid a prison sentence
7	Lack of transparency and resisting investigation	Not allowing the finances of a company to be examined; concluding secret deals
8	Harming the environment by exceeding government norms for pollution	Pumping contaminated water into rivers; not controlling carbon emissions according to legislation
9	Invasion of privacy used as leverage for obtaining personal or professional gain	Using information in confidential client folders for your benefit or the company's benefit
10	Sexual discrimination	A certain gender favoured above the other for certain jobs where both genders are able to perform at the same level.

KEY WORDS

professional person – one who is paid to undertake a specialised set of tasks
morale – emotional or mental conditions that affects motivation; not to be confused with moral (which relates to values)
Code of Conduct – document that states acceptable behaviours and protects all employees against discrimination

3.4 Professional and unprofessional business practices

A **professional person** is one who is paid to perform a specialised set of tasks. Traditional professions included doctors, engineers, lawyers, clergymen, architects and military officers. Today the term is more widely applied to indicate a high quality of workmanship or skill (e.g. professional artist). A key element determining whether someone is a professional is also whether or not they are paid. For example, a highly skilled soccer player who is not paid to play, is still called an amateur.

Many professional services are personal and confidential (e.g. lawyer, doctor) and the public must trust members of these professions with private information. Most professionals are, therefore, subject to strict codes of conduct.

The main criteria for professionals are:

- expert and specialised knowledge in the field
- excellent skills within the profession
- high quality of work
- high standard of professional ethics, behaviour and work activities
- reasonable work **morale** and motivation
- master in the field.

Anyone can demonstrate professionalism in their job. It is no longer solely about qualifications and university degrees, but also a question of hard work, honesty, attitude, appearance and social responsibility. It is about taking pride in what you do and always being committed to keeping up the standards of performance. Essentially, then, professionalism demands a positive attitude towards the work you do and towards the people around you.

Most professions and many businesses have a **Code of Conduct** that indicates what is appropriate behaviour for its members and what is expected of them as workers.



3.4.1 Principles of professionalism

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Principle	Expectation
Respect	Respect the dignity and rights of others and the image of the profession/organisation
Integrity	Work with honesty according to the law and the norms of the profession
Competency	Apply skills and knowledge for the good of society and the environment
Confidentiality	Never divulge client details to others or use client information for own benefit
Objectivity	Remain objective; act fairly and justly to all without bias or favouritism
Development	Continuously improve own skills and help others do the same

Here are some examples of how these principles might be displayed via behaviours in the workplace.

	Professional	Unprofessional
Respect	Polite language to colleagues; helping others; listening to advice from another; respecting differences in culture, language and religion; appropriate dress code	Using rude/impolite language; swearing at a colleague; ridiculing others' attempts to learn a skill; nasty remarks about other people's ideas; ridiculing differences in language, culture or religion; inappropriate clothing
Integrity	Looking after equipment; keeping to work hours; not bending the law to suit oneself (e.g. bribery); all dealings out in the open and honest	Using photocopier for private purposes; stealing stationery and equipment; not sticking to work hours; making excuses for work not done; open to bribery and secret deals; frequently taking sick leave without reason.
Competency	Doing the best job possible; staying after normal working hours if necessary; "going the extra mile"; helping colleagues with skills	Taking shortcuts with tasks; not completing work as agreed and required; not being prepared to learn and apply new processes
Confidentiality	Never discusses clients with others; never criticising clients in front of colleagues; not using client information for own advantage	Gossiping about clients; discussing client information; using client information for own benefit
Objectivity	Treat all people the same; apply laws consistently and properly; try to see both sides of an issue	Special favours given to some people; one-sided view of issues
Development	Attend courses to up-skill; help younger workers; respect and learn from those with more experience; keep reading about your profession/occupation	Refuse to go on upskilling course; satisfied with current knowledge: "know-it-all" attitude; not prepared to help others progress; disregard the experience of older workers.

Read the following scenario and answer the questions that follow.

Case study:

John comes to work each day, but is usually between ten and twenty minutes late. He misses the manager's daily briefing to the staff and offers no apology to anyone for his late-coming. He signs the time register as if he had arrived on time. He expects his colleague, a young woman, to bring him a cup of coffee the moment he arrives. When she does not, he tells the whole office that she is only fit to make the tea around the place – even though she ranks higher than he does. He always drinks his coffee first before getting down to work because he says that "he can't work without his coffee first".

John spends a great deal of his

working time doing work for the soccer club, using the company's telephone, computer and photocopier for club matters.

The office computer system was recently upgraded but John cannot use it properly as he was not prepared to attend the training courses, because it interfered with his soccer training schedule.

He has recently begun a small business of his own after finding some useful information in a client's file. He intends to bribe the client into sponsoring his business because he has information on her that could be harmful if John spreads it.

Identify all the unethical and unprofessional aspects of John's behaviour. Indicate whether each example is a lack of professionalism or a lack of ethics. Give reasons for your answers. (16)

3.5 The relationship between ethical and professional behaviour

KEY WORDS

conscience – inner sense of what is right and wrong

Personal ethics refers to one's own personal **conscience**, whereas professional ethics refers to keeping to a professional code. The two roles can sometimes conflict. For example, a Chartered Accountant is doing an audit of a friend's business and finds that there have been accounting irregularities and that the business has, over the past few years, been evading tax. His personal ethics could be loyalty to a friend, but his professionalism demands that he declares the irregularities.

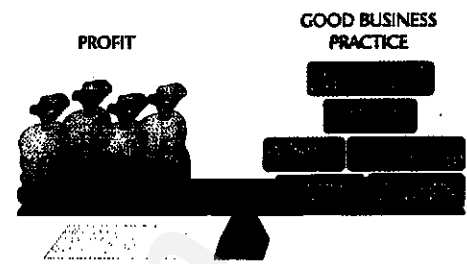
The main difference between ethical and professional behaviour is to be found in the cultural, religious or community norms that shape ethics.

Professionalism	Ethics
Knowledge and skills of a profession	Standards of behaviour
Used for the good of society or individual	Acceptable to society/group/community
Apply a Code of Conduct set by profession or business	Forms part of a Code of Conduct
Focus is on upholding the reputation of the business or profession	Focus is on developing a moral compass to use in decision making

3.5.1 Ways in which ethical and effective business practice should be conducted

Although the main aim of all businesses in South Africa is to make a profit for its owners and/or shareholders, they are under increasing pressure to be professional, responsible and ethical in their operation. This implies that business must find ways to keep the balance between making a profit, and using ethical and professional business practices at all times.

There are several steps a business needs to take to ensure good practice.



Step 1 Codes and policies

Businesses must develop codes of conduct and policies on specific issues

Step 2 Communication

Businesses must communicate developments and changes to employees. Employees must also be kept informed of the business's ethical stance.

Step 3 Training

Businesses must ensure that employees maintain their competence and are trained in ethical decision-making.

Step 4 Management

Businesses must ensure that the principles of the business in all areas of operation, and how customers and staff are treated, are consistent with the business's ethical stance.

Principle 1: No business should be started at the expense of someone else.

This means that the aim of a business should not be to harm another's interests in order to make profit for the shareholders/owners. Examples of this are found in the Masterbond and Fidentia scandals of the 1990s and 2000s.

In the case of Masterbond, the company stole R600m from pensioners, taking their life savings and pensions. The company claimed that Masterbond was a registered bank whose deposits would be protected by the South African Reserve Bank. Deposits of money were taken from (mostly) pensioners claiming that land was to be purchased on which they would build residential estates and shops. As it turned out, most of the developments never existed and many of the pieces of land that Masterbond claimed to have bought were actually in the sea! Documents were forged to make it look as if Masterbond was using deposits to develop land. In fact, the owners and managers of Masterbond were living in the greatest luxury.

In the Fidentia scandal, the company took R694m of retirement funds from the "Living Hands" trust for widows and orphans so that they could be re-invested. While these vulnerable people were waiting for monthly amounts to be paid to them, the executives didn't invest the money but used it to pay themselves huge salaries.

Principle 2: Fair wages should be paid to both executives and employees.

The Masterbond and Fidentia executives all gathered enormous personal fortunes by paying themselves monthly salaries completely out of proportion to what the employees were getting paid. Workers must not be exploited with low salaries just because it is hard to find a job and so they feel that they must work for whatever payment they are offered.

KEY WORDS

Income – money received for goods and/or services, or from other sources such as rent

expenditure – money spent on good or services

creative accounting – the process by which an individual or business hides some of its income and/or inflates some of its expenses

Principle 3: Tax should be paid regularly.

Businesses and individuals should not abuse the tax system or submit false tax returns. Tax returns should be prepared on time with an honest declaration of the companies' **income** and **expenditure**. Information technology should never be used to manipulate the databases or make the transactions look so complicated that they are not properly inspected. No attempt should ever be made to bribe tax officials and where such an official suggests that a bribe should be paid, the official should be reported to the relevant authority (SARS).

Principle 4: Hire honest, trustworthy accountants with good reputations.

No business can afford to have accountants who are known for their unethical and unprofessional practices. Accountants at companies such as Masterbond and Fidentia were all guilty of **creative accounting**, trying to cover up large personal loans that had been given to executives but were actually a way of stealing from the investors.

Principle 5: Staffing and other processes should be open and transparent.

Employees should be aware of the employment policy of the business and should inform themselves of the laws governing employment. For example, the Basic Conditions of Employment Act and the Employment Equity Act.

Principle 6: Draw up a Code of Ethics.

Employees can be made aware of what the company stands for and "buy into" the organisation's expectations for ethical norms and conduct if the company draws up and promotes a Code of Ethics.

Principle 7: Managers must set the tone and example.

The senior members of the company must act as role models by ensuring that all their actions and decisions are in line with the Code of Ethics of the business.

Principle 8: On-going development and training for all employees.

Seminars on business ethics should be held for managers and other employees to help them all understand the importance of the ethical work culture of the organisation.

Principle 9: Performance management systems should be in place.

Performance should be evaluated against a particular job description, which has been discussed and agreed upon between the manager and the employee. The measurement of ethical behaviour should form part of the **performance management system**.

KEY WORDS

performance management system – system in a business that assesses performance and provides feedback to employees on their work and progress

Principle 10: There must be adequate internal controls.

The monitoring of the systems that enforce the Code of Ethics should be an on-going process in an organisation. Regular discussions should be held at which potential problems can be identified and measures taken to put them right before it is too late. Successes should also be shared and celebrated within the organisation.

Principle 11: There should be honesty in all relationships and transactions in the business.

Businesses must monitor the honesty of transactions and the actions of employees by creating and implementing systems that protect customers and suppliers, and shareholders. This is particularly important in the case of financial transactions. For example, by setting **limits of authority** and requiring co-signing on large financial transactions and contracts.

KEY WORDS

limits of authority – the maximum amounts an individual can approve or spend without getting approval from another

Principle 12: The environment should be protected.

Laws protecting the natural environment (e.g. against pollution of water and air) should be taken seriously and the business must act legally. Attention should also be given to the environmental conditions under which employees work (e.g. adequate lighting and ventilation).

ACTIVITY 4 ANALYSE THE MASTERBOND AND FIDENTIA SCANDALS

1. Discuss what is meant by creative accounting. Provide an example to support your answer. (3)
2. Read the short summary of the Masterbond and Fidentia scandals, summarised in Principles 1 and 2 above. Although they are used as examples in Principles 1 and 2, there are other principles that these organisations did not adhere to. Explain in a paragraph which of the twelve principles of ethical business practice were broken by these two organisations. (24)

Issues that could challenge professional and ethical behaviour

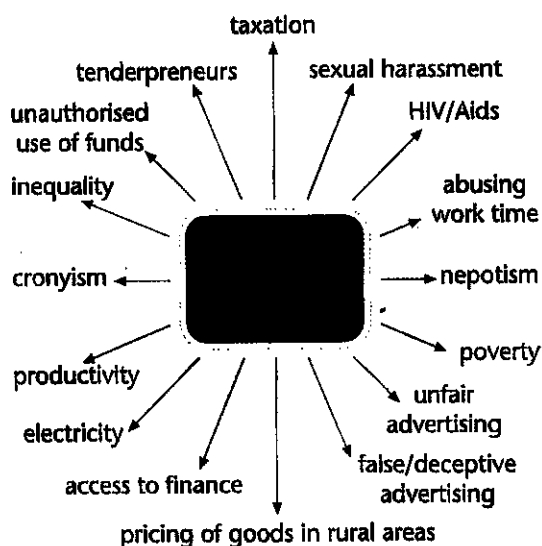
According to the World Bank, South Africa is ranked 34th of 183 economies in the world. The ranking measures how easy it is to do business in a country. The main constraints to greater investment in South Africa are:

- crime
- theft and disorder
- cost and reliability of electricity and infrastructure
- access to finance.



Factors that contribute to this ranking are the lack of regulations that govern transparency in business dealings, and an inefficient legal system. While these factors hinder investment, they are also challenges to the ethics and professionalism of South African businesses. We discuss these and other factors below.

3.6 Challenges to professional and ethical behaviour



3.6.1 Taxation

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Double taxation with respect to companies and close corporations is challenging to business. This implies that profits are taxed in the company or CC and taxed again when dividends and payments are distributed to shareholders.

Another taxation problem is the number of fraudulent declarations or incorrect returns submitted to SARS.

3.6.2 Sexual harassment

In any of its forms, **sexual harassment** shows disrespect and could lead to the loss of female employees or the company employing fewer females. Victims are often not willing to report sexual harassment for fear of further victimisation or even dismissal. Whistle blowers are often not adequately protected in sexual harassment cases.

3.6.3 Pricing of goods in rural areas

People in rural areas do not have the means to check and compare prices (via the Internet) and are often forced to buy from the one and only local store. Not only are these people often unemployed with no prospect of work in the area, but they are also at the mercy of **unscrupulous** shopkeepers who inflate the prices of basic goods.

3.6.4 Unfair advertising

Biased advertisements are unethical. When it comes to advertising positions, advertisements are not supposed to have any discriminatory conditions that would exclude some sections of the population. For example a job advertisement that says: "This work is not suitable for women" is not acceptable.

3.6.5 False advertising

Customers have the right to know what they are buying and all necessary information should be displayed on the label. However, advertisers still find ways to deceive consumers with misleading statements and in other ways which may be technically against the law. **Misleading advertising** is difficult to enforce though because it is subtle.

Examples of misleading advertising are prices that are manipulated by the offer of "free" gifts and measurement units and standards that are manipulated by using oversized packaging, misleading illustrations and/or fake colouring.

3.6.6 Unauthorised use of funds

Buying goods or equipment without authorisation or buying goods for personal use with company money, is theft. Taking money from the cash register is a more obvious form of stealing, but theft can take many forms. If it goes unchecked and unpunished, the business will experience substantial loss. Small thefts often escalate into thefts of more expensive items or money. Where this type of theft is widespread, employees who are doing so generally believe they won't get caught.

KEY WORDS

double taxation – tax paid by businesses on behalf of shareholders and the personal tax paid by shareholders on their earnings from their investment in the businesses
sexual harassment – persecuting, disadvantaging or troubling individuals on the basis of their gender
unscrupulous – without/bad conscience or principles

KEY WORDS

misleading advertising – advertisements or product/service presentations that are not completely dishonest but misrepresent the product or service in some way

This can take numerous forms and refers to any activity that is not focused on the job you are meant to be doing, except during tea or lunch breaks. An example of this is doing one's own private work; chatting for long periods around the kettle or water cooler; taking lengthy tea or lunch breaks; coming late and/or leaving early, and spending work time on social networking sites.

KEY WORDS

tenderpreneurs – individuals who enrich themselves through government tender contracts
nepotism – favouritism granted to relatives
cronyism – long-standing friends are appointed to positions of authority

3.6.8 Tenderpreneurs

This term has been created to refer to individuals who enrich themselves through government tender contracts, mostly based on personal connections and corrupt relationships. Outright bribery could take place in these cases and tenders that are 'won' in this way are often accompanied by overcharging and sub-standard workmanship.

3.6.9 Nepotism

This is favouritism granted to relatives, regardless of whether they are suited to the position or not. Nepotism can take place when an employee is appointed or when there is an opportunity for promotion.

3.6.10 Cronyism

Cronyism occurs when, regardless of qualifications or suitability for the position, friends are appointed to positions of authority. Often the person who makes the appointment is inadequate to hold his or her own position of authority, and therefore appoints individuals who will not try to weaken him or her or express views contrary to those of the appointer.

3.6.11 HIV and Aids

More than one in every ten people in South Africa is infected with the Human Immunodeficiency Virus (HIV). Although not all people with HIV will develop the Acquired Immune Deficiency Syndrome (Aids), particularly if they take antiretroviral (ARV) medicines, the effects of these conditions are felt by business.

The pool of skilled workers is getting smaller due to the high rates of HIV infection and Aids as workers are often preoccupied with their own and their families health and are less productive. Unfortunately there is ignorance about and fear about HIV which can cause conflict in the workplace when staff discover that someone in their immediate working environment is HIV positive.

The cost to business is considerable as insurance premiums, retirement fund contributions, health and safety costs and medical aid premiums have been increased as a result of HIV and Aids. It is costly for businesses to find suitable replacements for those who can no longer work; replacements will almost always need training.

However, businesses may not discriminate against workers with HIV or Aids and may not fire or retrench someone because of their disease.



3.6.12 Productivity

Businesses need to be efficient in converting resources into goods and services. The greater the efficiency, the greater the benefits for the economy, the business and the worker. South Africa has very low levels of productivity, even compared to other developing countries. Poor education, lack of skills and motivation, and management styles all contribute to this and there is a great need for training in efficient working methods and the best use of resources.

3.6.13 Poverty

Crime, violence, riots and strikes often stem from the large number of people living in poverty. Businesses operate within a community and usually employ people from that immediate community. Since the people in the community are very often also the customers, it is important for business to uplift the community within which it operates.

3.6.14 Inequality

South Africa has one of the most unequal distributions of income in the world. Most of the money is in the hands of a few. The rest has very little or none. Even with the introduction of Broad-Based Black Economic Empowerment (B-BBEE) legislation, little has changed significantly as only a few people have benefited and have become very wealthy. This creates a very difficult environment for businesses to operate in as they need to try redress inequality and yet remain sustainable.

3.6.15 Electricity

The electricity supply in South Africa tends to be unreliable, which is very disruptive to business, and rail and road transport. The system is old, and needs maintenance and expansion of capacity.

3.6.16 Access to finance

It is often difficult for entrepreneurs to get the finance they need to start a business. Finance usually comes from banks and/or the state but many budding entrepreneurs have to approach private sources for their start-up money (family, friends). The complaint is that there is too much red tape (administrative requirements) to get through, by which time the opportunity may have disappeared. Once you have got your business started, however, it is sometimes a problem to get the state to pay for the services it has received. This has led to businesses closing and leaving the owners in debt to the companies from which they bought raw materials for the job.

3.7 Strategies to address challenging issues

There is no easy way to fix any of the problems that hinder ethical and professional behaviour in the business world. Some of the issues are external to business, while others are issues arising within an organisation. There is more freedom to attend to the internal issues.

A Code of Ethics and a Code of Conduct for the business, which ensure respect for all, should improve relationships and eliminate issues such as harassment, discrimination against people who are HIV positive, unfair advertising and gender discrimination. The codes need to be implemented and people who do not adhere to them should be disciplined or penalised.



Practical example of strategy

A female employee in the company hears about a senior position becoming available. She is anxious about applying because currently all the senior managers are men, and she feels they may not want a female manager. A colleague points out to her that in the Code of Conduct it states that no race, gender or other discrimination will be tolerated in the company. This gives her the confidence to apply and she ends up getting the position.

If there was no Code of Conduct, or if her colleague had not explained it to her, she would never have even applied for the position.

A transparent employment policy, based on the national legislation on employment such as the Employment Equity Act, Basic Conditions of Employment Act and Broad-based Black Economic Empowerment Act, will discourage nepotism, cronyism and misleading job advertisements.

Practical example of strategy

Employees feel more comfortable knowing that they are protected by something in writing. A senior manager needs to get a position filled very quickly as there is urgent work to be done and her firm's company processes take ages to interview and employ people. Her cousin is looking for a job and she thinks he would be perfect for the position. She mentions this at a management meeting and is immediately warned about nepotism, and that the law and the firm's employment policy is clear about the need to follow the correct procedures. Although this frustrates the senior manager, she knows that she has to follow the correct process.

Internal control functions in a company, such as internal audit committees, should monitor the application of the Codes of Ethics and Conduct, unfair advertising of products, pricing of goods (particularly in rural areas) and productivity issues. Through strong internal controls, corruption can be addressed. Bribery and other corrupt actions, such as tenderpreneurship, unauthorised use of funds, theft of any kind, falsification of documents and other such activities, must be rooted out. Environmental issues should also be governed by internal control measures.

Practical example of strategy

A business that was previously very successful is now experiencing decreasing profits and unhappiness among employees. It is only when they carry out an internal audit process that they find that many of the contracts that they have outsourced have been given to unsuitable companies due to bribes. The employees not benefiting from this illegal practice have become more and more negative and less productive. The business has now established an ongoing process of internal audits and audit committees.

Extensive education programmes should be offered regularly to the workforce on health matters, clinical assistance for those infected with HIV or TB, all matters of corporate governance such as the company's Code of Ethics and Adult Basic Education Programmes to promote skills and knowledge and eventually, higher productivity.

Practical example of strategy

A company decides that it is important to upgrade their entire computer system and change all the computer software. Part of this process is to send staff on training to teach them to use the new software. But they put the training on hold as there are two large projects that have very tight deadlines.

The staff have to use the new software without training, and are confused and slow. As a result the company does not make their deadlines and loses a lot of money. The employees remind the managers that the company policy is to develop skills and knowledge to increase productivity.

A Social Responsibility Programme should be introduced to help uplift the community in which the business is situated. The programme should address the issues of poverty, inequality and health of the people of the community, many of whom will be working for the company.

Practical example of strategy

A senior manager of a company is concerned as many members of staff are leaving to go to other firms. The staff have said that they wanted to leave even though they were paid well and enjoyed working for the company. The manager decided to look at other companies to see what they were offering that was better, and discovered that employees want the "feel good factor". They want to work for companies that are seen to be doing good work and have an established social responsibility programme.

Where the challenges lie in the hands of government (taxation laws, access to finance, electricity supply and regulation), the corporate world must continue to put pressure on those in the government who have the power to change what needs to be changed.

Practical example of strategy

Many businesses excuse the bad service, ineffective and inappropriate transactions carried out in certain cases by the government because they don't see the government as an environment that follows the same business ethics and professionalism as any other business.

It is unacceptable for any organisation, including government, not to develop skills and knowledge among its employees, not to stick to codes of conduct, and to carry out practices such as nepotism, unfair advertising and corruption. Employees and management in government need to be disciplined in the same way as anyone else that is unprofessional or unethical.

The most important issue is that there must be consequences for unethical business practices. Those who behave unethically must be caught and punished accordingly.

Practical example of strategy

If a person has done something unethical it is essential for the company and for the other employees to see that the correct process and procedures are followed and the appropriate discipline measures put in place.

3.7.1 Specific practical strategies that can be applied

Specific practical strategies can be applied in various situations to address challenging issues.

Taxation and fraudulent declarations	Businesses should submit the correct amount of tax to SARS. Tax evasion and tax avoidance are fraudulent.	• Employees should report any tax evasion or tax avoidance in a business. • Consumers, suppliers and buyers should ensure that all products are correctly invoiced and recorded. • The public should report any suspicion of tax fraud to SARS. • Businesses should be aware and up to date with the latest SARS regulations and tax laws.
Sexual harassment	Disrespect shown to employees by sexually harassing them. Example: suggestive remark or joke by a male employee to a female colleague.	• Victims should report sexual harassment or fear of sexual harassment. • Businesses should put strict harassment policies in place that clearly stipulate the processes and procedures for reporting sexual harassment. • Businesses should clearly stipulate the consequences of sexual harassment and take the offence very seriously.

Pricing of goods in rural areas	Prices in the rural areas are often inflated as there is very little way of checking and comparing prices.	• Shopkeepers should be required to be fair and apply reasonable prices. • Access to rural areas should be increased so that more products and variety of products are available. • Consumers in the rural areas should insist on prices being fair and report any unfair pricing. • Entrepreneurship should be encouraged in the rural areas to increase buying power and variety.
Unfair or false advertising	All advertisements must adhere to stipulated regulations. Misinformation about a product, e.g. selling a secondhand or faulty item as a new or working item.	• Businesses must know and understand the Code of Advertising as determined by the Advertising Standards Authority and apply its regulations. • The consumer has the right to complain against any misleading or unfair advertising.
Unauthorised use of funds	Employees buy personal items with company money. Example: employee fills own car with petrol using the company petrol card, or buys a lunch using company money.	• The business and management should keep a tight control of company funds. • Only authorised and trustworthy employees should be given access to company money. • Management should audit all spending regularly. • Clear policies should be in place so that employees are aware what is considered to be theft.
Abusing work time	Employees use work time to carry out personal business. Example: employee doing Internet shopping on the computer during work time.	• Businesses and managers should give clearly structured work programmes. • Employers should be clear on the policy on what is and is not allowed during working hours.
Tenderpreneurs	Employees use personal connections to get government contracts.	• Government should put clear guidelines and selection processes in place to avoid this. • Businesses should declare any personal relations when tendering for government work.
Nepotism and cronyism	Friends or family are unfairly advantaged. Example of nepotism: someone gets a job because he is related to someone at a business. Example of cronyism: Someone gets a promotion because she is friends with a manager.	• Businesses should put clear guidelines and selection processes in place. • Employees and businesses should declare any personal relations when carrying out important processes and procedures. • Where personal relations and personal vested interests apply when a decision is to be made, those people should not be involved.
HIV and Aids	Discrimination people against with HIV and Aids. Example: Someone doesn't get a job because she is HIV positive.	• Clear guidelines and policies on HIV and Aids should be in place that everyone is made aware of. • Businesses should offer education and training programmes to keep people informed and up to date on the facts. • Management should give constant support to those with HIV or Aids, and to those affected by it in and outside the workplace.
Productivity	Poor education and lack of skills leads to low levels of productivity.	• Businesses should constantly be training and developing their employees. • Businesses should encourage staff to increase their productivity levels all of the time and reward them for achieving this.

Challenge	Explanation of the examples	Strategies that could be applied
Poverty	Crime, violence, riots and strikes often stem from the large number of people living in poverty.	• Businesses should constantly be training and developing their employees. • Businesses should carry out corporate social responsibility programmes that impact on the community. • Entrepreneurship should be promoted to provide more opportunities for employment.
Inequality	There is a unequal distribution of race, gender and income levels in South Africa.	• Businesses should be aware of policies such as B-BBEE, Skills Development, and Labour Acts that aim at reducing inequality. • Businesses should put policies in place to empower employees and communities.
Electricity	Businesses cannot function without electricity, and South Africa's electricity is unreliable and expensive. This has a huge impact on prices of all goods and services.	• Businesses need to make provision for backup generators. • The country needs to look at a back up plan to maintain and expand and upgrade the electricity as this impacts on productivity. • Businesses and consumers need to reduce electricity usage, as the more used, the more expensive it gets.
Access to finance	Entrepreneurs struggle to access finance to start and grow businesses.	• Strategies and systems are already being implemented by the government and some large businesses to provide start-up funds for small businesses. • More systems should be put in place to make start up capital more easily accessible to all entrepreneurs. • Investors should be encouraged to invest in local business to grow and develop the local economy.

ACTIVITY 5 DISCUSS ETHICAL PRINCIPLES IN BUSINESS

1. Compare nepotism and cronyism and explain the differences. Provide examples to support your answer. (4)
2. You are very excited about starting your own business. However, you also know of some business disasters that occurred because there was no proper planning from the start. You want your business to be run along ethical and professional lines.

Write two paragraphs to explain what measures you would put in place to ensure that your business will be run along ethical and professional lines. (16)

PROFESSIONALISM AND ETHICS**UNIT 1: Professional and ethical business practice**

- Ethics means the moral principles that guide decision making.
- Business ethics are specifically concerned with the ethics of managers and executives, who set the ethical tone of an organisation.
- The King Code sets out King's three pillars of good corporate governance: effective, ethical leadership; sustainable practices in business; and good corporate citizenship.
- The principles of professionalism are respect, integrity, competence, confidentiality, objectivity and development.
- Although the main aim of all businesses is to make a profit for its owners and/or shareholders, they are under increasing pressure to be professional, responsible and ethical in their operations.
- There are several steps a business needs to take to ensure good practice:
 - Businesses need a "Code of Ethics".
 - Employees must be kept well informed and up to date on latest developments and changes in their fields.
 - Regular updating on new developments is essential for workers to maintain their competence and professional skills.
 - Management must be seen to believe in the principles of the business in all they say and do.

UNIT 2: Issues that could challenge professional and ethical behaviour

- The challenges to professional and ethical behaviour in South Africa include: taxation, sexual harassment, pricing of goods in rural areas, unfair advertising, false or deceptive advertising, unauthorised use of funds, abusing work time, tenderpreneurs, nepotism, cronyism, HIV and Aids, low productivity, electricity, poverty, inequality, lack of access to finance.
- A code of ethics and a code of conduct for a business should embody respect for all, improve relationships, and should eliminate such issues as harassment, discrimination against people who are HIV positive, unfair advertising and gender discrimination. The codes need to be implemented proactively, and there should be consequences for the people who do not adhere to them.
- A transparent employment policy, based on national legislation on employment, will discourage nepotism, cronyism and misleading job advertisements.

SECTION A**QUESTION 1: MULTIPLE CHOICE**

Choose the most correct answer and write only the letter next to the question number.

- 1.1 Which of the following is a criterion for professionals?
- the ability to secure government tenders due to being influential
 - the ability to use client information to benefit the business
 - the ability to produce high quality work in the field
 - the ability to make lucrative, secret deals
- 1.2 A tenderpreneur is
- an entrepreneur who is sensitive about the tender process
 - someone who appoints friends in leadership positions
 - someone who abuses work time
 - someone who gets government contracts through personal relationships
- 1.3 Confidentiality means
- to never share a client's details with people outside the business or use them for your own good
 - to respect the dignity and rights of others
 - to work with honesty
 - to continuously improve your own skills

(2 × 3 = 6)

QUESTION 2: MATCH THE COLUMNS

Match the actions in Column A with the unethical practices in Column B

2.1	Using false figures in accounts	A. distorting facts to mislead
2.2	Using confidential information for own gain	B. invasion of privacy
2.3	Re-labelling garments	C. deception, dishonesty
2.4	Concluding secret deals	D. lack of transparency

(4 × 2 = 8)

QUESTION 3: FILL IN THE MISSING WORD OR PHRASE

- 3.1 _____ is the measure of how efficiently resources are converted into goods and services.
- 3.2. When a person employs family members, even when they are unsuitable for a position, it is known as _____.
- 3.3 In order to ensure that all employees in a business know what is expected of them from an ethical perspective, businesses should draw up a clear, detailed _____.

(2 × 3 = 6)

[20]

SECTION B

QUESTION 4: (BUSINESS ROLES) READ THE STATEMENT AND ANSWER THE QUESTIONS THAT FOLLOW

'Although business must make a profit, it is also under increasing pressure to be professional, responsible and ethical in its operation.'

- 4.1 Discuss what is meant by this statement. Provide a practical example to support your answer. (4)
- 4.2 Discuss four steps a business needs to take to ensure good practice. Provide a practical example for each of them. (8)
- 4.3 Discuss why it is so important for businesses to protect the environment. (4)
- 4.4 What is meant by practising social responsibility? Provide an example of how a business can do this. (4)

[20]

QUESTION 5: (BUSINESS ROLES) ANALYSE THE CASE STUDY

Read the short case study below and answer the questions that follow.

A woman and her son had just returned to town after a three-day camping trip in the veld. As they drove down the main street, they saw a sign advertising a luxury make of car at an extremely good price. The woman said to her son: "Our car is getting a bit old now. Let us look at the model they are advertising and, if we like it and it is suitable, I shall buy it right away. Your father will be very surprised! I have even got enough money in the bank to make this a cash payment."

So, the mother and son parked round the corner from the business and went in to have a look at the new models. They opened the doors, stroked the gleaming paintwork and the boy was just about to sit inside the car when a voice boomed out "What are you doing? Get out at once and get out of the shop too. You can't afford that car. Go!"

Mother and son were a bit amazed but they left the showroom, not wanting to make a fuss. As they were going back to their own car, they noticed another dealership further down. They went to look at the models that were there. The salesman was delighted to see them, asked them if they would like some coffee and made them feel at home.

Result: the mother bought the car, at a good price and was offered a further discount because she would be paying cash.

- 5.1. Which salesperson was more professional, the first salesperson or the second? Provide a reason for your answer. (4)
- 5.2 Provide your opinion on what you think the mother and son would have thought of the business ethics of the first business. Discuss your answer, providing reasons. (6)
- 5.3 Provide your opinion on what you think the mother and son would have thought of the business ethics of the second business. Discuss your answer, providing reasons. (6)
- 5.4 When the general manager heard about the lost sale of the first salesperson, she was not very pleased. How would you handle such a situation if you were the manager? (4)

[20]

SECTION C

QUESTION 6: LONG ANSWER QUESTION

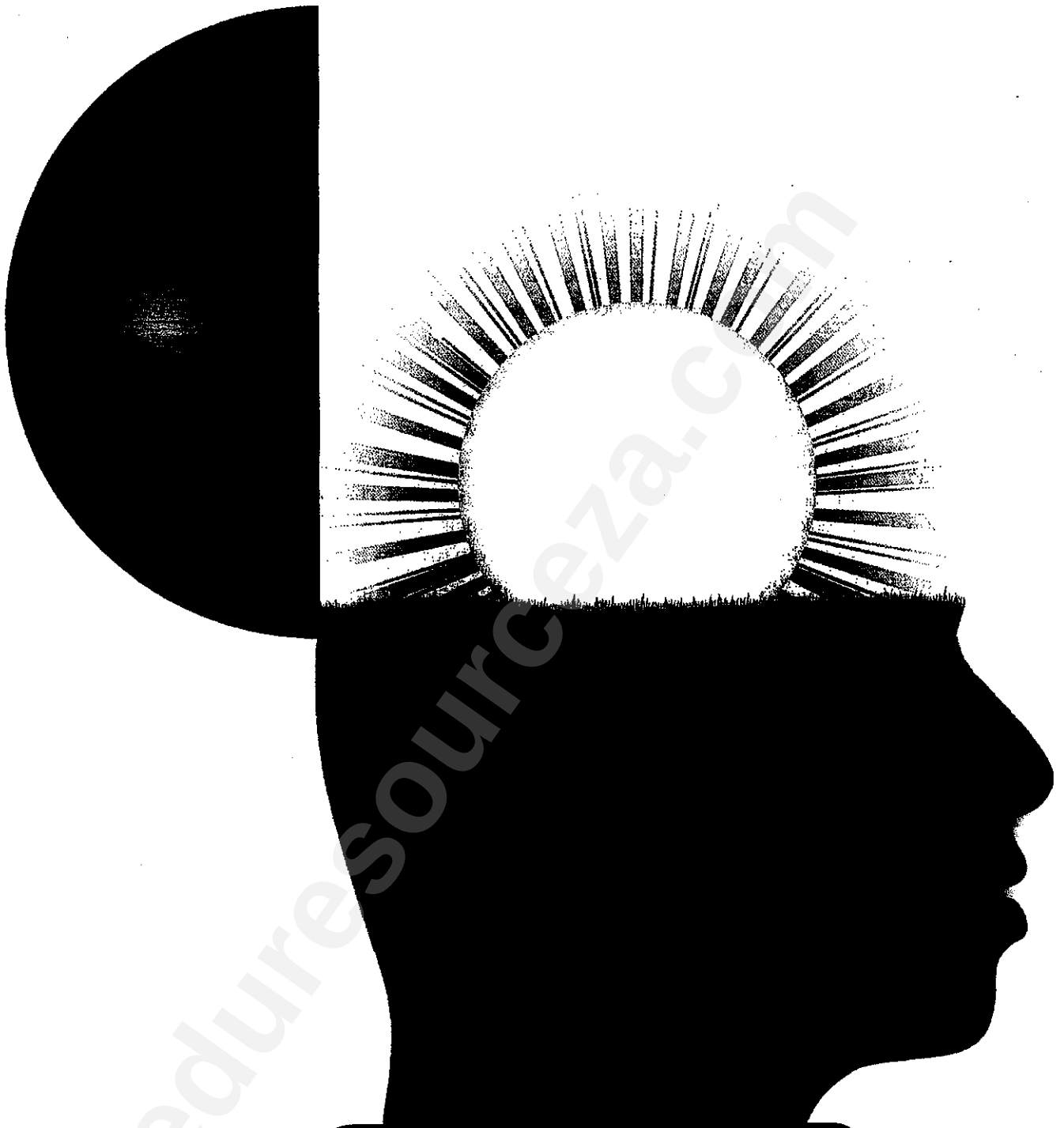
Discuss seven issues that you think are the greatest challenges to conducting ethical and professional business in South Africa. Use examples to show why and how you think that they impact on South African business.

[40]

Total marks: 100

4 Creative thinking

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UNIT 1: Acquiring advanced problem-solving skills

UNIT 2: Application of creative thinking to solve complex business problems

Acquiring advanced problem-solving skills

In Grade 10 you learnt about creative thinking and problem solving and in Grade 11 you applied **creative thinking** to solve business problems. In Grade 12 you will acquire advanced problem-solving skills and apply them to solve complex business problems. You will analyse case studies and apply the problem-solving skills you have learnt.

KEY WORDS

creative thinking – the ability to think of original, varied and innovative ideas

4.1 Problem solving versus decision making

Before we begin with advanced problem solving, though, you need to understand the difference between decision-making and problem solving.

Decision making	Problem solving
Decision making is often done by one person or by senior management, which makes it rather authoritarian . It is the practice of considering a number of existing alternatives and deciding which one is the best solution. For example, if you were given three different cellphones to choose from and you chose one of them, you would have made a decision.	Problem solving requires creative thinking in a process that evaluates alternatives and uses research to solve a problem. Problem solving is frequently carried out by a group and is therefore more inclusive than decision-making. It encourages creative thinking to generate innovative solutions which can be implemented and evaluated. Decision-making does form part of problem-solving, since decisions need to be taken at each step of the problem-solving process.
<pre> graph TD A[1. Identify problem] --> B[2. Consider possible solutions] B --> A </pre>	<pre> graph TD A[1. Identify problem] --> B[2. Define the problem] B --> C[3. Generate possible solutions] C --> D[4. Evaluate possible solutions] D --> E[5. Implement strategy] E --> A </pre>

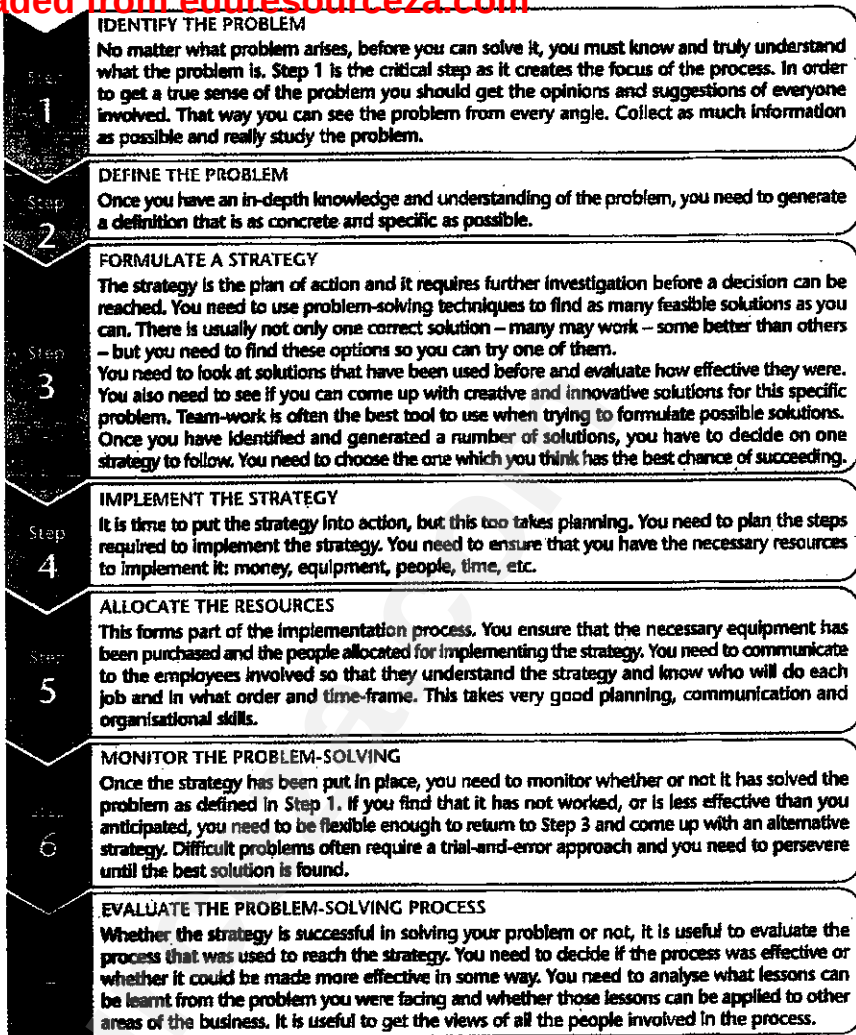
From the explanations above it should now be clear to you that the essential difference between problem solving and decision making is that in the case of problem solving people critically evaluate a number of possible solutions whereas in the case of decision making people choose from a range of presented solutions. Problem solvers evaluate at every step of the process, whereas decision makers may decide and not evaluate the effectiveness of the decision.

4.1.1 The problem-solving cycle

Problems arise regularly in any business and businesses will benefit if they have a process which they can use in order to solve the problem. The model we will use here has seven basic steps. Make sure that you understand each of the steps in the model so that you can apply it to problems that you will be asked to solve.

KEY WORDS

research – the systematic investigation into and study of materials and sources to establish facts
authoritarian – commanding activities with a lack of concern for the wishes or opinions of others
generate – is to produce or create
strategy – a plan of action designed to achieve a long-term goal



ACTIVITY 1 ANALYSE A BUSINESS SCENARIO

Read the business scenario below and answer the questions that follow.

A large car manufacturing company has had continuously declining sales over the past three to four years. Management has informed the shareholders that it is a sign of the times and that all businesses are experiencing decreasing profits because of the economic crisis. The shareholders and board members do not accept this explanation and insist that action be taken to solve the problems.

1. Identify and discuss the steps in the problem solving cycle. (14)
2. Analyse the case study to determine three possible reasons why the car manufacturing company may have had declining sales over the past few years (besides the economic crisis). (6)
3. Determine the actual reason why sales have declined. (6)
4. Develop a strategy to improve sales for each of the three possible problems that you identified in the first question. (6)

4.2 Acquiring advanced problem-solving skills

Entrepreneurs, managers and employees need to become creative and think more openly in order to reach an **innovative**, but realistic and workable solution. The tools and techniques below are just some of the methods that can be used to help them to acquire advanced business problem-solving skills.

KEY WORDS

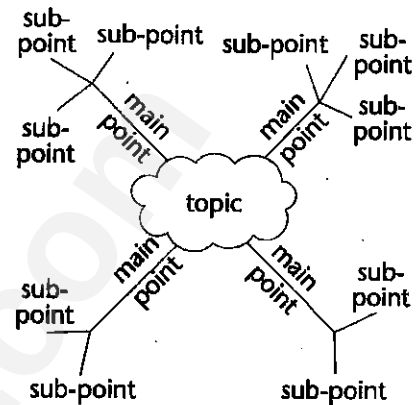
Innovative – ideas featuring new and original methods

4.2.1 Mind mapping

Mind maps are diagrams that represent ideas or concepts. Their strength is that they represent how our thinking works. Mind maps are useful for generating new ideas, problem solving, making notes to organise thoughts, and summarising when studying.

Mind maps are designed as follows:

- Decide on your central problem or topic and find a word or picture that captures it. This word or picture forms the centre of the mind map.
- Break down the central theme into **main ideas** or points and put these on the main branches. This is often done through brainstorming (which we will discuss next).
- Break the ideas down further into sub-points.
- Use colour and shapes to help sort ideas logically. Use words or pictures where possible.



4.2.2 Brainstorming

Brainstorming is often used for problem solving when an organisation wants to involve a group or team in the process. It can be a very effective and motivating technique, but it needs to be carefully managed by a **facilitator** to ensure the best result is achieved.

Brainstorming works as follows:

- The problem must be clearly defined. Once everyone in the group understands the definition, a time limit must be set for brainstorming.
- People in the group suggest ideas and solutions at random and all ideas get written on a flip chart. The facilitator must encourage everyone to participate and ensure that no one criticises any of the suggestions as this will discourage people from giving ideas.
- When the time is up or no one has any more ideas, the sheets with the suggestions are put up around the room.
- Similar ideas are grouped together using coloured pens.
- A new list is drawn up, which refines the ideas and combines certain ideas.
- The group evaluates the ideas and rates them according to how successful they think each idea will be.
- A plan of action is discussed to put the best ideas into practice.

KEY WORDS

facilitator – person who manages a process so that it happens easily and smoothly

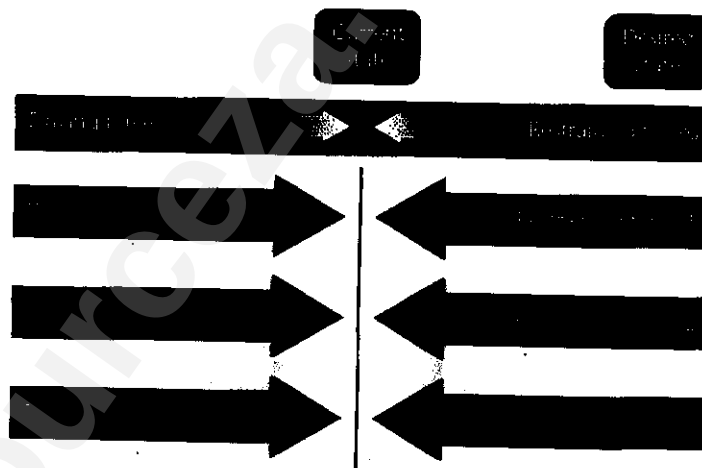
A sweet company has decided to launch a marketing campaign for their new chocolate chewing gum. The marketing department needs to come up with a creative solution.

1. Discuss the role of a facilitator. (2)
2. Evaluate whether they should apply the mind mapping technique or the brainstorming technique. Provide reasons for your answer. (4)

4.2.3 Force-field Analysis

The force-field analysis was developed by Kurt Lewin to facilitate change in an organisation. People are often resistant to change and will resist change taking place. So management may be a force acting for change, while the employees may be a force acting against change. The forces cancel each other out and no movement takes place. If management pushes harder, the employees will too.

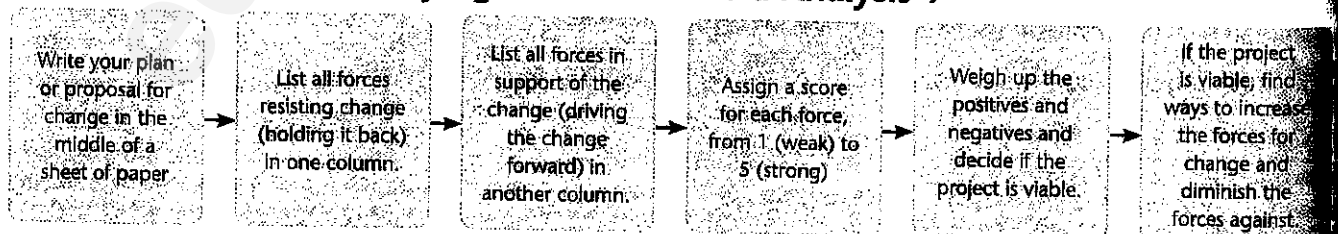
Instead, force-field analysis suggests that change be communicated effectively to employees.



The method works as follows:

- Stop all change for a while until proper communication can take place (called unfreezing).
- Explain the reasons and benefits of the changes to all staff and ensure that everyone understands how the changes will affect them. Ensure that all questions are effectively dealt with (called moving).
- Do not make any more changes in the organisation for a while so that it can stabilise and employees can get used to the changes (called refreezing).

Carrying out a Force-field Analysis .



ACTIVITY 3 ANALYSE THE SCENARIO AND DO A FORCE-FIELD ANALYSIS

Analyse the scenario below and answer the questions that follow.

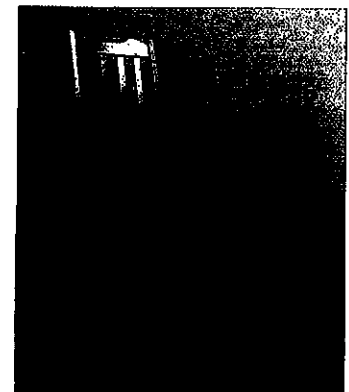
A bakery that supplies all of the food for the airlines in South Africa has recently received a huge increase in orders and is struggling with its current capacity to produce. Management is deciding whether to install a new industrial food processor, but are very worried that the increase in business will not continue. They also have to consider the training needed for the staff as well as the slow-down in production during the changeover.

1. Analyse why a force-field analysis technique is very suitable for this problem-solving scenario. Justify your answer with practical examples. (6)
2. Apply a force-field analysis to the scenario above and show how a conclusion can be reached and a decision made. (12)

4.2.4 The Empty Chair Technique

The empty chair technique can be used when you have to make a decision on your own. You place an empty chair in the room and you imagine that someone you respect is sitting in that chair. Then you explain the problem to them aloud and in detail. You describe all the angles of the problem. Next, you tell them what you think the possible solutions are and how you think each of the solutions will work out.

This exercise will stimulate your thinking. It helps to clarify the problem since you have to explain it to "someone else." In the same way it often helps to improve your understanding of the problem. It also allows you to hear the possible solutions spoken out loud and how you justify each of them. It often happens that the best solution becomes clearer when spoken aloud in this way.



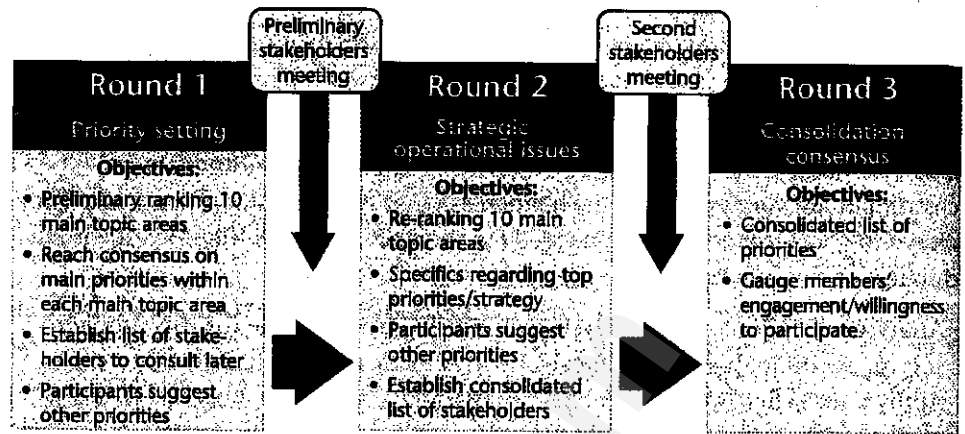
4.2.5 The Delphi Technique

The Delphi technique is generally used when trying to solve a big problem for which there seems to be no previous examples of solutions.

The method works as follows:

- A panel of carefully selected experts is invited to participate in the process.
- A carefully designed questionnaire is distributed to the panel.
- The panelists respond to the questionnaire individually and return it to the organisation.
- The responses from the experts are summarised in a feedback report, but the responses are anonymous so none of the panelists know who made which suggestion.
- The feedback report, and a second set of questions related to the feedback are sent to the panelists.
- The panelists read the feedback report and decide if they wish to change their initial ideas, suggestions or solutions. They then complete a second questionnaire.
- A final summary and feedback report is prepared. The idea is that consensus will be reached through this method and the best solution will be found.

idea before not allowing it to be used to avoid the situation where a group votes according to who the most persuasive, confident person is in the group.



ACTIVITY 4 ANALYSE THE SCENARIO AND APPLY THE DELPHI TECHNIQUE

Analyse the scenario below and answer the questions that follow.

Woodlands Mechanics has been experiencing a large amount of theft lately. Many of its clients collect their cars after their service and pay cash. It is often after hours when this occurs and the member of staff on duty has to deal with the cash and payments. The manager suspects that this has been going on for some time and is not too sure how to deal with the situation. One of the ways to solve the problem is through applying the Delphi technique.

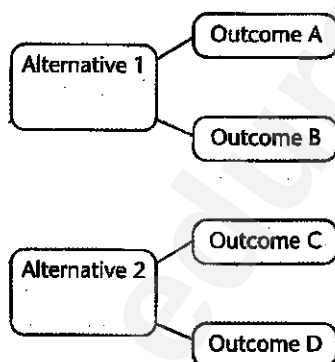
1. Analyse why the Delphi technique is very suitable for this problem-solving scenario. Justify your answer with practical examples. (8)
2. Illustrate the application of the Delphi technique to the scenario above and show how a conclusion can be reached and a decision made. (12)

4.2.6 The Nominal Group Technique

The Nominal Group Technique (NGT) is used to avoid the disadvantages of group discussions. In a group, you often get one or two dominant people who take over while the other members of the group sit passively and do not have the confidence to give their opinions.

The NGT works as follows:

- The group is divided into smaller groups of people seated around a table.
- The problem is clearly defined.
- Each individual silently brainstorms as many ideas as possible and writes them down.
- One by one each person in the group gives one of their solutions and someone writes them all down on a big sheet of paper. Then everyone gives a second solution, and on and on until all the possible solutions have been recorded. No one is allowed to criticise, but participants may ask questions to understand the suggested solution more clearly.
- Each person reads through all the suggestions and anonymously rates them – giving the highest points for the best solution, down to the lowest points for the one they like the least.



- The ratings are collected and the points calculated. The group is given the results of which idea received the most points, second most, etc.
- Each group presents the solution that was deemed best according to the votes.

4.2.7 Forced combinations

Most creative ideas come from re-mixing existing ideas. Forced combinations help you to look at existing ideas in new combinations.

The process of solving problems using forced combinations works as follows:

- In a group, define and understand the problem.
- Brainstorm key words to do with the problem. Don't worry if they do not all seem relevant.
- Write the key words on small pieces of paper and stick them on the wall.
- Combine the words to make new combinations and try to come up with ideas from those combinations.
- Be adventurous in how you combine ideas and play with the words.
- Select the best ideas and use them to create a strategy.

4.2.8 SCAMPER

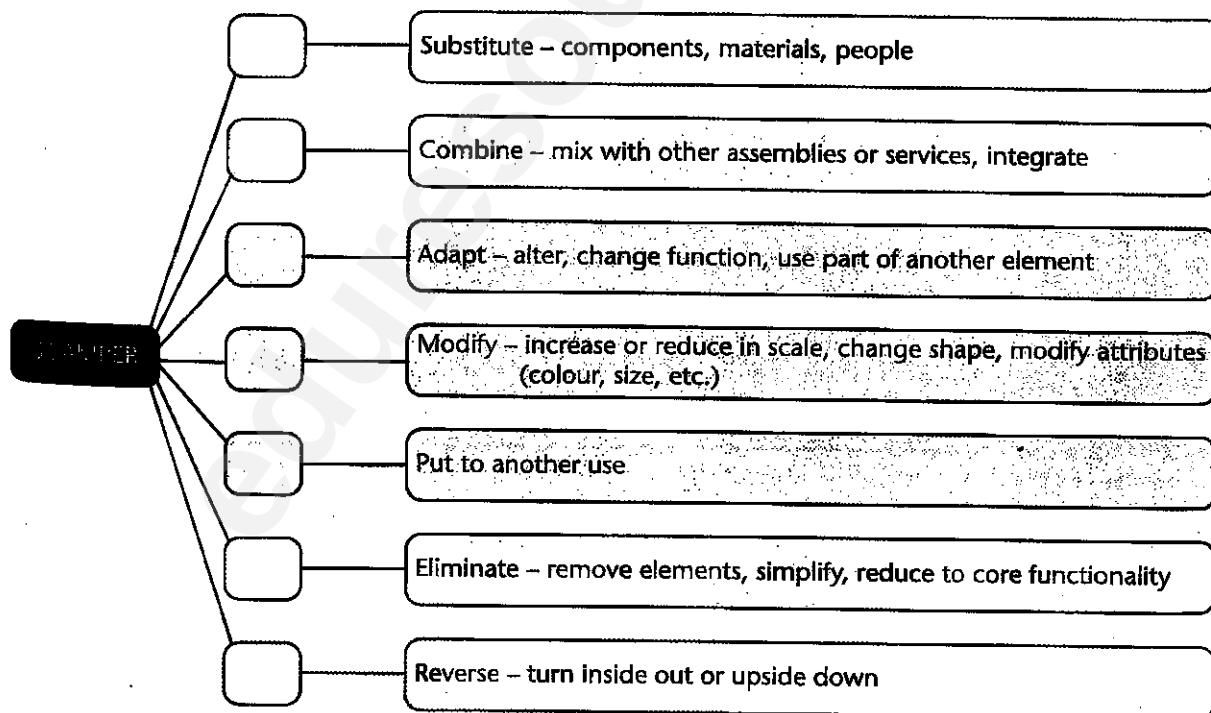
When solving problems, you often need to look at the situation from different angles. SCAMPER is a technique that has been designed to guide you through the process of seeing things differently.

SCAMPER stands for **S**ubstitute, **C**ombine, **A**dapt, **M**odify, **P**ut to other uses, **E**liminate and **R**earrange.

Let's look at a situation where a business needs to increase their sales volumes.

The process of using SCAMPER is:

- Identify the problem or the idea you want to develop.
- Ask questions relating to each of the techniques on the checklist below.



Checklist	It Gets You To	Example
Substitute	replace part of the problem with something new	What can I substitute in my selling process? E.g. sell pens instead of paper.
Combine	arrange parts of a problem in a creative way to cancel out the problem	How can I combine the product that I'm selling with another product. E.g. sell pens and pencils.
Adapt	look at existing solutions and adapt them to solve your current problem	What can I adapt or copy from someone else's product line? E.g. sell pen and pencil sets as offered by competitors, and add writing paper.
Modify	change the situation or distort the problem	Can I produce a completely new line of products? E.g. use existing machinery to manufacture trailers instead of cars.
Put to other uses	use parts of your product for something else or to use something unrelated to help solve your problem	How can I market my product for other purposes? E.g. a sunscreen line can also be used as moisturiser.
Eliminate	try to get rid of some parts of the product or to reduce them until they are much smaller	What can I eliminate or simplify in my production process? E.g. sell a pen that has no pocket clip so that you can reduce costs.
Rearrange	push the idea around and rearrange it to help you think of it differently so you can come up with creative ways to solve the problem, or parts of it.	How can I change or re-order or reverse the way I sell? E.g. offer free use of an internet service for one month and only collect payment if users subscribe, rather than insisting on subscriptions immediately.

KEY WORDS

Indigenous knowledge – is the knowledge and skills which people in a particular area possess, and which enable them to get the most out of their environment

ACTIVITY 5 APPLY INDIGENOUS KNOWLEDGE

Read the information below and answer the questions that follow.

Indigenous knowledge is the knowledge and skills that people in a particular area possess and which enable them to get the most out of their environment. In South Africa we have a wealth of indigenous knowledge that can be tapped when searching for business opportunities or ways to solve problems. We must never underestimate the value of "street smarts," traditional wisdom, experience and culture. Before a business can identify a business opportunity, it must understand its market and so knowledge of the history, culture and traditions of the market is essential. An understanding of indigenous knowledge will also impact on dealings with staff.

1. Describe what indigenous knowledge is. (2)
2. Explain how indigenous knowledge affects the way businesses operate. Provide an example to support your answer. (4)
3. Analyse how indigenous knowledge can impact the staff of a business when solving a problem. Use a practical example to justify your answer. (6)

1.3 Summary of problem-solving techniques

Technique	Application	Advantages	Disadvantages
Mind mapping	Organise thoughts Summarise notes Generate new ideas Solve problems	Very easy to generate Represents how the brain works Stimulates brain Easy to remember Effective in presentations	Some people find mind maps too chaotic and messy.
Brainstorming	Solve problems in a team Generate new ideas in a group	Stimulates creative thinking People get ideas from others and build on them Safe environment to be creative	Can be dominated by one strong team member Shy members don't contribute
Force-field Analysis	When change is needed	Makes people feel included and understood People develop and grow with the business	Time-consuming since business must stabilise before more changes can be made
Empty chair	Make decisions on your own	Clarifies the problem Solutions must be clearly justified	Limited creativity since only one person's view is really applied
Delphi Technique	Solve problems for which there is no precedent	Experts give anonymous suggestions so may feel free to be more creative Experts can feed off each other's ideas	Suggestions may not converge so consensus may not be reached
Nominal Group Technique	Solve problems in a team Generate new ideas in a group	Group members all participate Votes are anonymous so may be more honest	Ideas may not converge Suggestions may not be as creative as when a group throws ideas around
Forced combinations	Generate new ideas in a group	Stimulates creativity Allows people to really think outside the box	People involved can feel inhibited by how wild ideas can become
SCAMPER	See things differently	Helps to generate different ideas Stimulates objectivity	Relatively complex so not suitable for all groups and levels Time-consuming

ACTIVITY 6 APPLY A PROBLEM-SOLVING TECHNIQUE

Analyse the case study below and answer the questions that follow.

A South African online tourist company recently launched a campaign for affordable and effortless holidays to Africa. Their target market is families and young married couples who are not always able to afford exclusive fancy holidays. Their marketing team put together a series of adverts and publicity events that has really got everyone talking. The reason why everyone is talking is not because the deals are so good, or because they are necessarily interested in the product or service, but because part of their strategy was to put down the competition by accusing them of unnecessary high prices and ripping off customers. Although what they stated was true, they have been accused of being unethical and have received negative attention. They need to solve this problem.

1. Select an appropriate problem-solving technique and explain why you chose the one you did. (4)
2. Apply the technique to the scenario showing the process that you followed to reach your solution. (10)

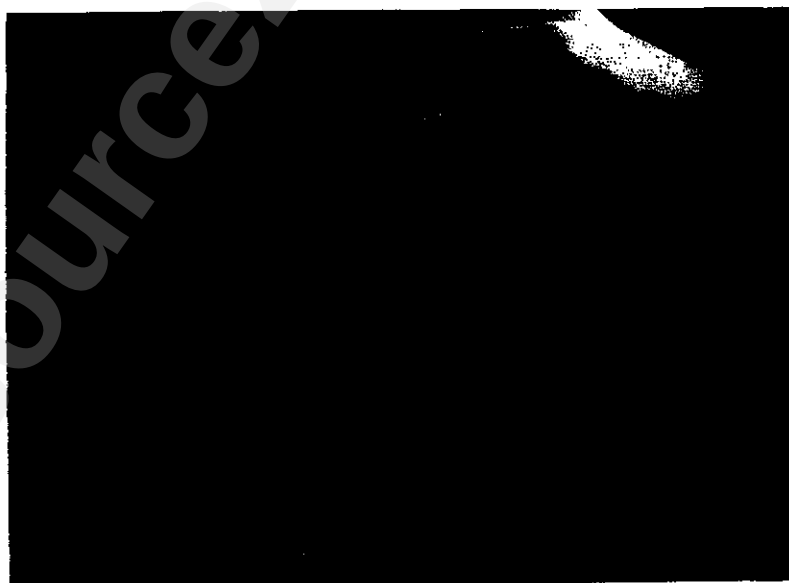
Application of creative thinking to solve complex business problems

Every business has problems that need to be solved. Business problems are unavoidable but people do not like dealing with problems as they involve time, thought, conflict, and choice which make people uncomfortable. If, however, a business has a clear process to follow whenever a problem needs to be solved, it can make the problem-solving less daunting and more of an opportunity for positive change.

Some business problems involve how to use opportunities. Every business that wants to grow, needs to be able to recognise business opportunities and be creative enough to work out how to exploit those opportunities. They also need to come up with creative ways to implement the opportunities they have identified. Therefore, creative and innovative thinking is essential to the success of any business, large or small.

4.4 What is creative thinking?

Creative thinking is the ability to think of original, varied and innovative ideas. Creative thinking focuses on exploring ideas, generating possibilities and looking for many possible answers, not just one. Luckily everyone has the potential to be creative. We just need to learn to recognise our creativity, apply it and exercise it regularly and it will become easier to access.



4.4.1 The benefits of creative thinking in businesses

Developing and encouraging creative thinking in the workplace has many benefits:

- it improves the quality of solutions to business problems
- it stimulates profitable new ideas for products, marketing campaigns and public relations, among other things
- it motivates workers and improves their skills and makes for a happier workforce
- it improves **productivity**.

KEY WORDS

productivity – the effectiveness of productive effort measured in terms of the rate of output

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Truly successful entrepreneurs develop a new product or service. They create a new market for a product that never existed before. The cell phone and the iPad are examples of such products.

4.4.2 Applying creative thinking in a changing world

Businesses are constantly faced with new challenges as the world changes quickly and they need to be creative enough to plan quickly and implement innovations in order to adapt to rapid change or they will not be **sustainable**.

Businesses are faced with challenges and problems such as:

- globalisation which leads to increased competition
- huge environmental problems, and public focus on these problems
- energy shortages
- technology that keeps changing
- changes in the needs and attitudes of employees and customers.

Creative thinking to solve business problems

If an organisation develops a culture of creative thinking in the workplace, then every business problem becomes a challenge that can be met through creativity:

- New products or services can be designed to meet changing needs.
- Products and services can be creatively marketed.
- Existing products can be creatively adapted to meet changing tastes and demands.
- Managers come up with creative strategies for the business.
- Managers can motivate and manage staff in a creative way in order to get the best from them.
- Employees can think for themselves and come up with creative solutions to all kinds of business problems.
- Creative public relations strategies can be designed and implemented.

There are certain techniques or approaches that businesses can use to solve business problems creatively. These include:

1. Creating an environment that promotes creative thinking.
2. Working with others to solve problems and generate ideas.
3. Developing creative thinking skills.
4. Using **non-conventional solutions** and indigenous approaches.

Creating an environment that promotes creative thinking

Some organisations are trying new approaches to running their businesses. They recognise the need for management and workers to be creative thinkers. They encourage creativity by designing environments that stimulate creative thinking.

They provide this type of environment by:

- encouraging a spirit of play and experimentation
- giving positive feedback on the ideas that workers share
- providing time, resources and opportunities for creative problem-solving
- encouraging employees to have group problem-solving sessions

KEY WORDS

sustainable – able to be maintained at a certain rate or level

KEY WORDS

non-conventional solutions – answers that are not based on, or do not conform to, what is generally done or believed

- training staff in creative thinking and problem-solving techniques
- recognising and rewarding achievement
- giving freedom to employees to express their ideas and take risks in a safe, non-threatening environment.



Working with others to solve problems and generate ideas

It is very difficult to be consistently creative and innovative on your own. It really helps the creative process to be able to bounce ideas off other, supportive, and thinking people. It also helps to hear other people kicking ideas around as it often triggers more ideas in your own mind. Many problem-solving techniques involve working in groups to generate ideas:

Our individual experience and knowledge is limited, but in a group of people, particularly a diverse group, the total experience and knowledge increases, which helps the group look at problems from different viewpoints and perspectives.

Developing creative thinking skills

Depending on our education and home environments, we may or may not have had an opportunity to develop our creative thinking skills. We all have the capacity for creative thinking and we can all generate innovative ideas and apply our imagination to come up with alternative solutions and then judge their value. Creative thinking skills should be developed and practiced through creative thinking activities, games and techniques. Some of the techniques and approaches we have covered in this chapter will be more or less suited to your own thinking style. All of them can be acquired, developed and applied to solve problems creatively.

KEY WORDS

dynamic – energetic and acting effectively

intuitive – applying intuition, i.e. perception and insight

Using non-conventional solutions and indigenous approaches

The environment in which businesses operate is no longer conventional, but **dynamic**, competitive and often unstable. To adapt to a changing environment, businesses require dynamic, creative, innovative, non-conventional and strategic solutions that break the confines of accepted procedure.

Businesses require managers and employees that can think unconventionally, are responsive and **intuitive**, willing to learn new ways and draw on the old ways to develop an original, innovative solution. When you can't think of something completely new, there is nothing wrong with looking to the tried and tested. Ask how people did it in the past and look for indigenous approaches and solutions to problems. You will often find that the indigenous solutions will lead you to a way to adapt the old ways to fit your current environment.

Examine the scenario and answer the questions that follow.

A fast-food company whose main product is burgers has conducted a survey that shows that their breakfast products are actually the most popular. They need to take advantage of this and design a new marketing campaign that is different and creative.

1. Why does the business feel they need a new and different campaign? (2)
2. How would you go about getting your team to contribute to the creative process? (6)
3. Which creative thinking technique from Unit 1 would you use for this situation and why? (6)



4.5 Evaluating creative solutions to complex business problems

Coming up with creative and innovative solutions to business problems can be an exciting process. However, the solutions must be carefully evaluated and assessed since they must be effective and work in the real environment in which businesses operate.

The questions in the table below are used to evaluate and **assess** the effectiveness of solutions. Depending on the type of problem or solution, some of the questions may not apply, but these questions will apply in general.

KEY WORDS

assess – to evaluate the quality of something
cost-effective – worthwhile or productive in relation to its cost

• Does it solve the problem effectively? • Does it satisfy all the needs identified? • Does it have any negative side-effects? • Does it work within the budget, specifications and time constraints? • Is it acceptable to society, employees and customers? • Is it ethical? • Is it environmentally friendly?
• Is it worth the money and effort? • Does the benefit of the solution justify the cost? • Is the solution practical, logical, useful, understandable and easy to implement? • Is the solution reliable and dependable over a long term?
• Is it organised, unified and apparently simple? • Is it well-designed and -presented?
• Is it innovative and groundbreaking? • Is it surprising and unusual? • Does it offer other possibilities? • Does it hold promise for the future?

CREATIVE THINKING

UNIT 1: Acquiring advanced problem-solving skills

- Problem solving encourages creative thinking in a process that evaluates alternatives and uses research to solve a problem.
- Entrepreneurs, managers and employees need tools and techniques that can help them to acquire advanced business problem-solving skills. These methods include the following:
 - mindmapping
 - brainstorming
 - force-field analysis
 - empty chair technique
 - Delphi technique
 - nominal group technique (NGT)
 - forced combination
 - SCAMPER.

UNIT 2: Application of creative thinking to solve complex business problems

- Creative thinking is the ability to think of original, varied and innovative ideas.
- Businesses are constantly faced with new challenges as the world changes quickly. Businesses need to employ creativity in planning and implementing innovations in order to adapt to rapid change or they will not be competitive or sustainable.
- If an organisation develops a culture of creative thinking in the workplace, then every business problem becomes a challenge that can be met.
- Some organisations are trying new approaches to running their businesses. They recognise the need for management and workers to be creative thinkers. They encourage creativity by designing environments that stimulate creative thinking.
- To adapt to a competitive business environment, businesses require dynamic, creative, innovative, non-conventional and strategic solutions that break the confines of accepted procedure.
- Creative solutions must be carefully evaluated and assessed because they must be effective and work in the real environment in which businesses operate.

SECTION A

QUESTION 1: MULTIPLE CHOICE

Choose the most correct answer and write only the letter next to the question

- 1.1 The problem-solving technique that focuses on looking at the positives and negatives of a situation is:
- Delphi technique
 - Mind-mapping
 - Force-field analysis
 - Empty chair technique
- 1.2 The seven steps of problem solving include:
- identifying the problem, formulating a strategy, allocating resources and evaluating the process
 - formulating a strategy, combining strategies, monitoring strategies, solving the problem
 - identifying resources, allocating resources, evaluating resources and evaluating process
 - define the problem, follow a process, evaluate the process
- 1.3 The ability to think of original, varied and innovative ideas describes:
- problem solving
 - creative thinking
 - strategy
 - innovation

[2 × 3 = 6]

QUESTION 2: MATCH THE COLUMNS

Match the name of the creative thinking technique with its description. Write only the question number and the appropriate letter.

2.1	Individuals brainstorm a problem and write down possible solutions. Individuals take turns to read out one of their solutions. Solutions are all recorded and then shared anonymously.	A	Force-field analysis
2.2	A group thinks of both positive and negative outcomes for various solutions. They weigh the pros and cons and try to come up with the best solution.	B	SCAMPER
2.3	Brainstorm the problem and then brainstorm any key words that are even vaguely connected with the problem. Write the key words on bits of paper and combine them in different ways to come up with an innovative idea.	C	The empty chair technique
2.4	A group asks a number of different questions about the problem so that everyone in the group is forced to view the problem from very different angles so that innovative solutions can be found.	D	The Delphi technique
2.5	Stop all change until the change has been satisfactorily communicated and explained to everyone involved. Make the change, and then stop all further change until everyone has become comfortable with the new way.	E	Forced combinations
2.6	A panel of experts fills in a series of questionnaires which they can anonymously adjust when they see what other panellists ideas are. If the process is successful a consensus will be reached as to the best solution.	F	The nominal group technique

[12]

SECTION B**QUESTION 3: (BUSINESS ROLES) CASE STUDY**

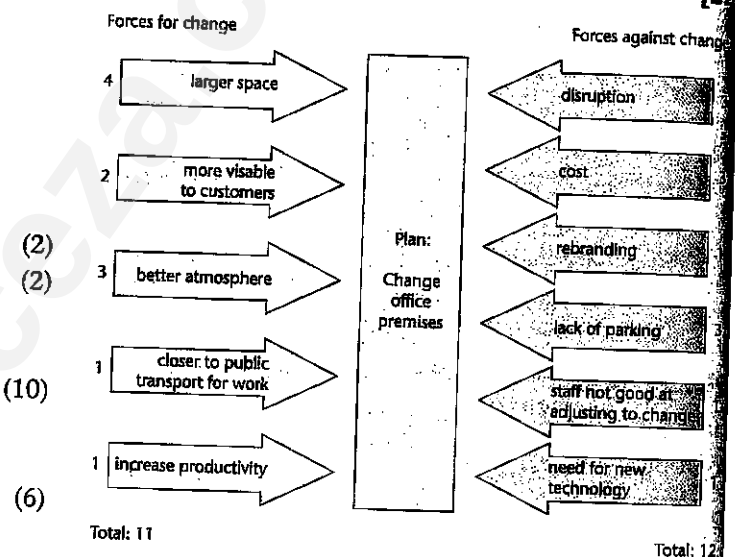
The safety policy of a large business has not been implemented successfully. Many of the employees feel that the policy does not address the most important issues and needs to be more detailed, while others feel that there is too much unnecessary emphasis on this policy and it is wasting working time. Management has decided to use the Delphi technique in an attempt to solve the problem. They want to include employees from all of the various departments on the panel.

- 3.1 Briefly explain the process of the Delphi technique.
- 3.2 Why do you think management chose the Delphi technique for this particular problem?
- 3.3 The first questionnaire simply asked the open-ended question: "Does the safety policy meet the needs of the organisation?" Why do you think they chose this question?

QUESTION 4: (BUSINESS ROLES) ANALYSE THE DIAGRAM

Analyse the diagram on the right and answer the questions that follow.

- 4.1 Identify the type of problem-solving technique to which the picture refers.
- 4.2 Identify the problem that is being solved.
- 4.3 Discuss how the problem-solving technique works, using the diagram as part of your explanation.
- 4.4 Analyse the diagram and draw a conclusion as to what the final decision will be. Provide practical reasons for your answer.

**SECTION C****QUESTION 5: LONG ANSWER QUESTION**

Lindy has a consulting company that deals with Government. She has decided that it is time to make some serious changes in the company and move to the next level of use of technology and growing their target market. She has had the same staff for the past seventeen years and they are all very resistant to change. They tend to solve problems in the same way and clients are starting to get bored with the old methods. You advise Lindy that there are certain ways that a business can promote change and encourage creative thinking.

Discuss processes and procedures that Lindy can introduce into the company to promote the application of creative thinking to solve some of their complex business problems. Use practical examples to support your answer.

[40]
Total: 100

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Macro-environment business strategies

UNIT 1 Development of strategies in response to the challenges in business environments

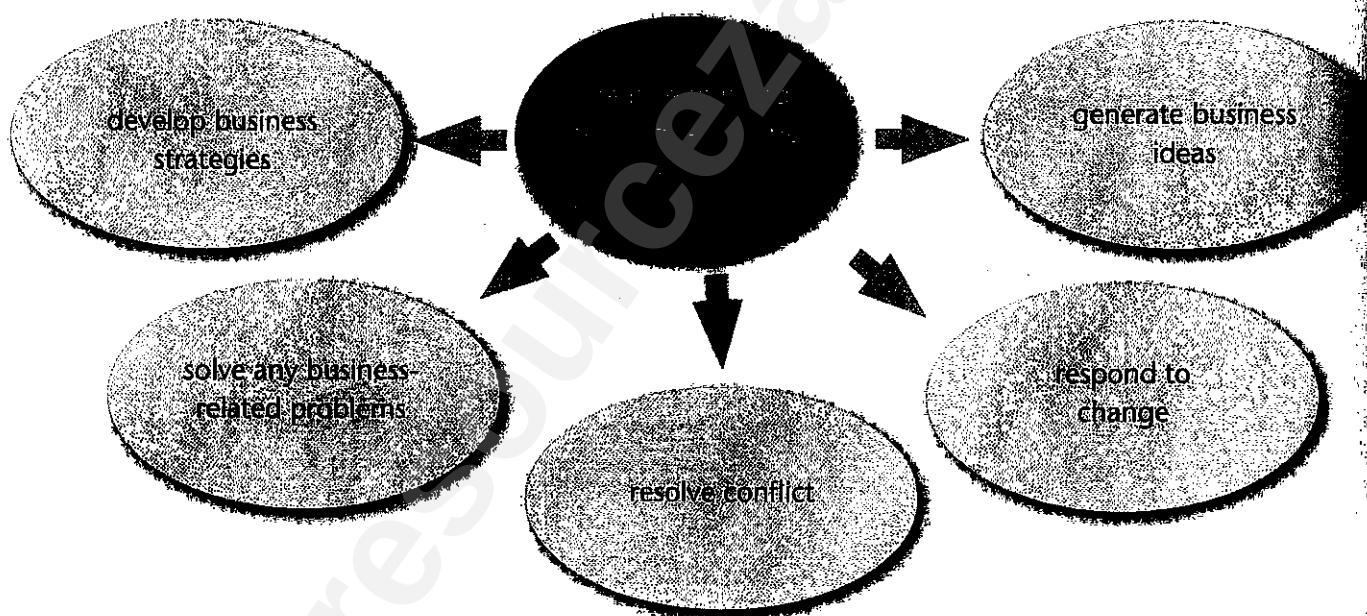
UNIT 2 Types of business strategies and strategic evaluation

Development of strategies in response to the challenges in business environment

In Grade 10 you learnt about the various components and features of macro business environments and the interrelationships between the features of the environments. In Grade 11 we focused on the challenges of the macro environment and its impact on businesses, as well as and how a business constantly needs to adapt to the challenges of the micro, market and macro business environments. In Grade 12 we focus on developing strategies that businesses can use to respond to the challenges of the macro business environment. In addition, we discuss how to critically evaluate such strategies and make recommendations as required.

5.1 Advanced problem-solving skills

As discussed in the previous chapters, businesses are faced with ongoing changes, problems and conflict. Advanced problem-solving skills and creative-thinking techniques are what business need to solve their problems and make full use of opportunities. The best way for businesses to adapt to a changing environment is by thinking creatively.



KEY WORDS

problem solving – a creative process whereby people define the problem critically and evaluate possible solutions before choosing an option

In our earlier discussions, we said that businesses need to create an environment that stimulates creative, non-conventional thinking, encourages enterprising employees to develop innovative products and services and adapts to change.

We saw that **problem solving** is about finding new solutions to new problems, while decision making is about choosing the best solution from a number of existing choices. In Chapter 4 we looked at a 7-step problem-solving cycle to solve complex problems and then discussed some of the many creative thinking techniques available to business.

Here is a brief summary of the creative-thinking techniques that we covered:

- Draw a circle in the centre with one key idea.
- Identify categories and subcategories and draw them from the main idea.
- Organise thoughts.
- Summarise notes.
- Generate new ideas.
- Solve problems.
- Very easy to generate.
- Represents how the brain works.
- Stimulates the brain.
- Easy to remember.
- Effective for group problem solving and in presentations.
- Some people find mind maps too chaotic and messy.

1.2 Brainstorming

- Define problem clearly. Ensure everyone understands the problem. Set a time limit for brainstorming.
- All members of the group randomly suggest ideas and solutions. Write these down on flipchart. Ensure equal participation and no criticism of ideas.
- At the end of the session, display the suggestions so all can see them.
- Group similar ideas.
- Make a new list that refines ideas and combines certain ideas.
- The group evaluates the ideas and rates them according to how successful they think each idea will be.
- Discuss a plan of action to put the best ideas into practice.
- Solve problems in a team.
- Generate new ideas in a group.
- Stimulates creative thinking.
- People get ideas from others and build on them.
- Safe environment to be creative.
- Can be dominated by one strong team member.
- Shy members don't contribute.

5.1.3 Force-field Analysis

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Method	• Stop all change for a while until proper communication can take place (called unfreezing). • Explain the reasons and benefits of the changes to all group members and ensure that everyone understands how the changes will affect them. Deal with all questions effectively (called moving). • Make changes and wait until everyone is comfortable with these changes before making more (called refreezing).
Applicability	• When change is needed.
Advantages	• Makes people feel included and understood. • People develop and grow with the business.
Disadvantages	• Time-consuming since organisation must stabilise before more changes can be made.

5.1.4 Empty Chair Technique

Method	• Place an empty chair in the room and you imagine that someone you respect is sitting in that chair. • Explain the problem out loud to the imaginary person. • Describe all the angles of the problem. • Say what you think the possible solutions are and how you think each of the solutions will work out.
Advantages	• Make decisions on your own. • Clarifies the problem. • Requires that you justify solutions clearly. • Limited creativity since only one person's view is really applied.

5.1.5 Delphi Technique

Method	• Invite a panel of carefully selected experts to participate. • Distribute a carefully designed questionnaire to the panel. • The panelists respond to the questionnaire individually and return it to the organisation. • Summarise the experts' responses in a feedback report. Do so anonymously. • Send the feedback report and a second set of questions to panel members. • The panelists read the feedback report and decide if they wish to change their initial ideas, suggestions or solutions. They then complete the second questionnaire. • Prepare a final feedback report and summary. The idea is that consensus will be reached through this method and the best solution will be found.
Advantages	• Solve problems for which there is no precedent. • Experts give anonymous suggestions so may feel free to be more creative. • Experts can feed off each other's ideas.
Disadvantages	• Suggestions may not agree and no consensus may be reached.

5.1.6 Nominal Group

- Divide the group into smaller groups of people.
 - Define the problem clearly.
 - Each individual silently brainstorms as many ideas as possible and writes them down.
 - Record each person's solutions by allowing everyone in the group to give one of their solutions, and then repeat until all solutions have been recorded. No criticism, but questions for understanding are allowed.
 - Each person rates each suggestion anonymously; highest point for best solution and lowest points for worst.
 - Collect ratings and calculate points. Share the results.
 - Each group presents the solution that was voted best.
- | | |
|---------------|---|
| Application | <ul style="list-style-type: none"> • Solve problems in a team. • Generate new ideas in a group. |
| Advantages | <ul style="list-style-type: none"> • All group members participate. • Problem solving by voting is democratic. • Ideas are anonymous and may be more honest. |
| Disadvantages | <ul style="list-style-type: none"> • Ideas may not agree. • Suggestions may not be as creative as when a group brainstorms. |

5.1.7 Forced combinations

- In a group, define and understand the problem.
 - Brainstorm keywords to do with the problem. Don't worry if not all of them seem relevant.
 - Write the keywords on small pieces of paper and stick them on the wall.
 - Combine the words with each other to make new combinations and try to come up with ideas from those combinations.
 - Be adventurous in how you combine ideas and play with the words.
 - Select the best ideas and use them to create a strategy.
- | | |
|---------------|--|
| | <ul style="list-style-type: none"> • Generate new ideas in a group. • Stimulates creativity. |
| Disadvantages | <ul style="list-style-type: none"> • Allows people to really think outside the box. • People involved can feel inhibited by how wild ideas can become. |

Meaning	• Substitute • Combine • Adapt • Modify • Put to other uses • Eliminate • Rearrange • Identify the problem or idea and then apply each of the questions to it.
Application	• In situations where it is necessary to consider problems from a variety of all angles.
Advantages	• Simple guidelines to see things differently. • Forces creative thinking. • Problems are looked at critically from many different angles.
Disadvantages	• Can lead to a lot of debate and discussion which takes up time. • Not always an easy and appropriate technique to apply to situations or with all groups.

ACTIVITY 1 ANALYSE THE CASE STUDY

Analyse the case study and answer the questions that follow:



Mandy has been managing 'Plants for You' Nursery for five months and is horrified at the lack of service that her staff give to the customers. She is not too sure why the staff are not motivated and why they do not properly help and serve customers. She knows that the only way to improve customer satisfaction and therefore sales is to get to the root of the problem and find a creative way of dealing with the situation.

Name any two creative thinking techniques and discuss how Mandy could apply these to solve the business-related problem and develop a business strategy. (8)