



**BUSINESS STUDIES**  
**GRADE 12**  
**TERM ONE**  
**REVISED CHAPTER 1**  
**NOTES ON THE IMPACT OF RECENT LEGISLATION ON**  
**BUSINESSES**  
**2020**

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**This chapter consists of 26 pages**

**IMPACT OF RECENT LEGISLATION ON BUSINESSES**

**REFER TO PAGE 7 AND 8 OF THE 2020 EXAM GUIDELINE**

**CONTENT DETAILS FOR TEACHING, LEARNING AND ASSESSMENT PURPOSES**

- Outline/Describe/Explain/Discuss the purpose of all EIGHT Acts
- Discuss/Explain/Evaluate the impact (positives/advantages and/or negatives/ disadvantages) of the Acts on businesses
- Outline/Explain/Discuss actions regarded as non-compliance by the various Acts
- Outline/Explain/Discuss penalties/consequences of non-compliance to various Acts.
- Suggest/Recommend ways in which businesses can comply with the Acts.
- Outline/ Explain/Discuss the role/functions of SETA's in supporting the Skills Development Act (SDA),1998 (Act 97 of 1998)
- Explain how SETA's are funded
- Define/Elaborate on the meaning of learnerships
- Explain the National Skills Development Strategy and the Human Resource Development Strategy (i.e. Sector Education and Training Authorities).
- Distinguish/Differentiate between Black Economic Empowerment (BBE) and the BBBEEE Act.
- Explain/Discuss the implications of the following revised FIVE pillars of BBBEE on businesses
  - Management control
  - Ownership
  - Enterprise and supplier development (ESD)
  - Skills Development
  - Socio-economic development/Social responsibility
- Name/Identify BBBEE pillars from scenarios/case studies
- Recommend/Suggest ways in which businesses could apply the revised FIVE pillars of BBBEE in the workplace.
- Outline/Explain/Describe/Discuss the provisions of the BCEA
- Outline/Explain/Describe/Discuss the rights of the employers and employees in terms of the LRA
- Outline/Explain/Describe/Discuss the rights of consumers in terms of the NCA and CPA.

Term	Definition
Skills Development Act/SDA	The main aim of this Act is to improve the skill levels of people who are already employed in the business.
Skills Development Levy/SDL	It was introduced to ensure that businesses contribute to the development of skills of employees.
PDI's	Previously Disadvantaged Individuals or designated group.
SETAs	SETA's were established in order to implement and monitor the implementation of the Skills Development Act.
Labour Relations Act/LRA	This Act was introduced to promote simple procedures for the resolution of labour disputes in the workplace.
Collective bargaining	Negotiations between employers' association and trade unions on matters such as wages/conditions of employment.
Collective agreement	Agreement between the employer organisations and trade unions.
Dispute	A disagreement between the employer and the employee
Bargain councils	It is formed by registered trade unions and employer organisations in order to prevent/resolve labour disputes.

Employment Equity Act/EEA	The main aim of this Act is to ensure that equal job opportunities are given to all people regardless of race/culture/language/age/religion/disability etc.
Affirmative Action	It was designed to ensure that suitable and qualified previously disadvantaged individuals are given equal job opportunities. Affirmative action forms part of the Employment Equity Act.
Basic Conditions of Employment Act/BCEA	This Act sets the minimum standard for employment in order to promote fair labour practice.
Compensation for Occupational Injuries and Diseases Act/COIDA	The Act gives employees who are injured or contract diseases while on duty the right to claim compensation.
Broad-Based Black Economic Empowerment Act/BBBEE	The Act was introduced in order to ensure full economic participation of previously disadvantaged individuals.
National Credit Act	This Act was introduced to protect consumers against unfair and reckless credit granting by businesses.
Credit providers	All businesses that offer goods and services on credit
National credit Regulator/NCR	The NCR is responsible for the <i>regulation</i> of the South African <i>credit</i> industry. This means that all businesses that offer good and services on credit must be registered with the NCR.
Debt review/ Debt counselling	This is a debt solution targeted at South African consumers who are over indebted and struggling to manage their finances.
Consumer Protection Act	The main aim of this Act is to promote/protect the economic interests of consumers by providing them information so that they make <b>informed choices</b> .
Compliance	Acting according to a set of rules
Penalties	Punishment for doing something that is against a law.
Discriminatory actions	Treating a person/people differently, from the way in which you treat other people.



## 1 THE SKILLS DEVELOPMENT ACT

### Purpose of the Skills Development Act

- Develops the skills of people in South Africa in order to improve productivity
- Invests in education and training of workers
- Improves the chances of getting a job for previously disadvantaged people
- Encourages workers to participate in learning programmes.
- Redresses imbalances of the past through education and training
- Encourages businesses to improve the skills of their workers

### Impact of the SDA on businesses

#### Positives/Advantages

- Trains employees to improve productivity in the workplace.
- Promotes self-employment and black entrepreneurship
- Increases the return on investment in education and training
- Workplace discrimination can be addressed through training.
- Workplace is used as an active learning environment where employees can gain practical job experience
- Business could become globally more competitive.
- Increases the number of skilled employees in areas where these skills are scarce.
- Encourages on-going skills development and learning to sustain the improvement of skills development.
- Improves employment opportunities and labour movement of workers from previously disadvantaged groups
- BBBEE-compliant businesses can improve their products/service delivery as they employ more skilled workers.

#### AND/OR

#### Negative/Disadvantages

- Increases cost as the process requires a large amount of paper work.
- Implementation of the SDA can be difficult to monitor and control.
- Skills programmes may not always address training needs of employees.
- Skills Development Levy could be an extra burden to financially struggling businesses.
- It may be monitored and controlled by government departments that do not have education and training as their key priorities.
- The SETAs may not be well organised and many courses offered by companies may not have unit standards that relate to the course content.
- Many service providers that offer training services are not SAQA accredited.
- Many businesses may not support this government initiative.
- Employees are expected to attend learnerships during work hours which could affect the production process/productivity.
- Costly for businesses to employ a person to implement, manage and control learnerships.
- The time and money spent on improving employee skills is wasted if they leave the business.
- Only companies with a staff payroll over R500 000 per annum can claim the Skills Development levy



**Actions regarded as non-compliant in terms of the SDA**

- Preventing employees from signing for a learnership due to their age or position in the workplace.
- Unfair promotion of skills and development/training to certain employees.
- Providing employment services for gain without being registered as an employer.
- Furnishing false information in any prescribed document.

**Penalties for non-compliance**

- Businesses that do not pay the Skills Development Levy may not offer learnerships/claim grants from the SDA.
- A labour inspector could order the business to stop operating should the business be found guilty of illegal practices.

**Ways in which businesses can comply with the SDA**

- Employers who collect PAYE should register with SETAs.
- One per cent of an employer's payroll has to be paid over to the SETA.
- Businesses should register with SARS in the area in which their business is classified (in terms of the SETA).
- Employers should submit a workplace skills plan and provide evidence that it was implemented.
- Businesses with more than 50 employees must appoint a skills development facilitator.
- Assess the skills of employees to determine areas in which skills development are needed.
- Encourage employees to participate in learnerships and other training programmes.
- Provide all employees with the opportunity to improve their skills.

**Role/functions of SETAs**

- Report to the Director General.
- Promote and establishes learnerships.
- Collect levies and pays out grants as required.
- Provide accreditation for skills development facilitators.
- Register learnership agreements/learning programmes.
- Approve workplace skills plans and annual training reports.
- Monitor/Evaluate the actual training by service providers.
- Allocate grants to employers, education and training providers.
- Oversee training in different sectors of the South African economy.
- Develop skills plans in line with the National Skills Development Strategy
- Draw up skills development plans for their specific economic sectors.
- Provide training material/programmes for skills development facilitators.
- Pay out grants to companies that are complying with the requirements of the Skills Development Act.
- Promote learnerships and learning programmes by identifying suitable workplaces for practical work experience.



**Funding of SETAs**

- Skills Development levies are paid by employers to SARS as a collecting agency for the government.
- Employers who have a salary bill that exceeds R500 000 per annum, should pay one percent (1%) of their annual salaries as a levy.
- The different SETAs receive 80% of the levy for organisational expenses and the remaining 20% is paid to the National Skills Fund.
- Donations/Grants received from the public/businesses/CSI programmes.
- Surplus funds from government institutions.
- Funds received from rendering their services.

**Meaning of learnership**

- Theoretical/Practical training opportunities that can lead to a recognised occupational qualification.
- Structured learning programme completed during work hours for a specified period of time.
- Agreement between a learner/trainee, employer and a training provider.
- May include employment for a specified period after learnership is completed.
- Includes a training course with learning material as well as practical work experience.

**Meaning of the National Skills Development Strategy**

- Increase access to programmes that train people.
- Promote the public FET college system that has programmes to meet the skills needed by SETA's/ local/regional/provincial/national organisations.
- Address the low level of language and mathematical skills among the youth and adults.
- Make better use of workplace-based skills development.
- Encourage/support small business/community-training groups/NGO's/worker-initiated training initiatives.
- Increase the skills of the public sector to improve service delivery.
- Build career/vocational guidance/training centres.
- Guides work of SETA's /the use of the National Skills Fund.
- Sets out the responsibilities of other education and training stakeholders.
- Provides for the participation of government/organised business/organised labour.
- Improves social development through economic development

**Meaning of the Human Resource Development Strategy**

- Addresses skills shortages in the South African workforce.
- Aims at achieving faster economic growth/higher employment levels and reduced levels of poverty.
- Promotes social development/social justice and helps to alleviate poverty.
- Develops short term and long term workforce skills.
- Improves the supply of skills.
- Increases employee participation in lifelong learning.



## 2 LABOUR RELATIONS ACT/LRA

### Purpose of the Labour Relations

- Promotes collective bargaining at the workplace.
- Establishes Labour Courts and Labour Appeal Courts.
- Promotes fair labour practice between the employers and employees.
- Promotes workplace forums to accommodate employees in decision making.
- Provides for the right to lock-out by the employer as a reaction to lengthy strikes.
- Promotes simple procedures for the registration of trade unions and employer organisations
- Establishes the Commission for Conciliation, Mediation and Arbitration (CCMA) for dispute resolutions.
- Provides a framework/structure for labour relations between employers and employees.
- Clarifies the transfer of employment contracts between the existing and new employers.
- Advances economic development/social justice/labour peace to ensure that the workplace maintains the basic rights of employees.

### Impact of the LRA on business

#### Positives/Advantages

- Promotes a healthy relationship between the employer and employees
- Protects the rights of businesses in labour related issues.
- Labour disputes are settled quicker and are less expensive.
- Workplace forums can add value to businesses if it functions properly.
- Protect employers who embark on lawful lock-outs when negotiations between parties fail.
- LRA provides for the principles of collective bargaining and puts structures in place with which disputes in the workplace can be settled.
- Provides specific guidelines for employers on correct and fair disciplinary procedures.
- Employers and employees have guidelines regarding correct and fair dismissal procedures.
- Provides mechanisms such as statutory councils/collective bargaining/ CCMA.
- Employers are entitled to compensation from the Labour Court if they suffered damages as a result of unprotected strikes.

#### AND/OR

#### Negatives/Disadvantages

- Reduced global competitiveness due to lower productivity
- Productivity may decrease if employees are allowed to participate in the activities of trade unions during work time.
- Costs of labour increases because of legal strikes.
- Employers may not get a court interdict to stop a strike.
- Employers may have to disclose information about workplace issues to union representatives that could be the core of their competitive advantage.
- Employers may not dismiss employees at will, as procedures have to be followed.
- Many employees take advantage of the right to strike without acknowledging their responsibilities.
- Many employees and employers do not understand/respect the Labour Relations Act.
- Strike actions always result in loss of production for which employers may not claim.
- Some trade unions may not promote the mandate of their members but embark on industrial action, which is harmful to labour relations between employers and employees.
- Some businesses may feel that the LRA gives employees too much power as it creates lengthy procedures, e.g. consulting with workplace forums.
- Labour disputes and bargaining council processes become disruptive/ time consuming and can lead to a decrease in productivity in businesses.



**Actions regarded as non-compliant in terms of the LRA**

- Unfair/Illegal dismissal of employees.
- Preventing employees from joining trade unions.
- Refusing the establishment of workplace forums.
- Forcing employees to give up trade union membership.
- Not allowing employees to take part in legal strikes./ Not adhering to the right of employees to strike when legalised.
- Cancellation of employees' contracts by a new employer when a business is sold
- Refusing to give workplace forum members paid time off for attending meetings during working hours.
- Refusing leave to trade union representatives to attend trade union activities.
- Breaching of collective agreements/resolution mechanisms by either employer/employee.

**Penalties for non-compliance with the LRA**

- The employer may be forced to enter into a dispute resolution process.
- Businesses will be fined if they fail to comply with the agreements reached during the dispute resolution process.
- Businesses that fail to comply with this Act may risk financial costs e.g. legal/CCMA fees and fines.

**Ways in which businesses can comply with the LRA**

- Employees should not be unfairly/illegally dismissed
- Allow/Support the establishment of workplace forums.
- Employers should not breach/ignore any collective agreement
- Businesses must allow employees to form trade unions/participate in union activities/legal strikes.
- Disclose all relevant information required by trade union representatives to do their jobs effectively.

**The rights of employers and employees according to LRA****Rights of employers**

- Form employer organisations.
- Form a bargaining council for collective bargaining purposes.
- Employers have the right to lockout employees who engage in unprotected/illegal strike/labour action.
- Dismiss employees who are engaged in an unprotected strike/misconduct such as intimidation/violence during a strike action.
- Right not to pay an employee who has taken part in a protected strike for services/work they did not do during the strike.

**Rights of employees**

- Employees may join a trade union of their choice.
- Embark on legal strikes as a remedy for grievances.
- Refer unresolved workplace disputes to the CCMA.
- Refer unresolved CCMA disputes to the Labour Court on appeal.
- Request trade union representatives to assist/represent employees in the grievance/disciplinary hearing.
- Trade union representatives may take reasonable time off work with pay, to attend to trade union duties.





### 3 EMPLOYMENT EQUITY ACT /EEA

#### Purpose of the EEA

- The EEA allows employees who do the same work to be paid equally.
- Eliminates discrimination on grounds of gender/race/disability in the workplace.
- Promotes equal opportunity and fair treatment in the workplace.
- Promotes diversity in the workplace by ensuring that people of diverse backgrounds are appointed.
- Protects employees from victimisation if they exercise the rights given to them by the EEA.
- Ensures equal representation in the workplace through the implementation of affirmative action.

#### Impact of the EEA on business

##### Positives/Advantages

- Encourages consultation between employer and employees.
- Promotes equal opportunity and fair treatment in the workplace.
- Impacts positively on BEE ratings for businesses.
- Appointment process is clearly defined, so all parties are well informed.
- Motivates employees because the workforce is more diverse/representative/inclusive
- Motivates employees because everyone has the same employment opportunities.
- Promotes the implementation of affirmative action measures to redress the imbalances in employment.
- Provides employees with legal recourse if they believe they have been unfairly discriminated against.
- Provides all employees with an equal opportunity to be selected/appointed/ promoted in a position.
- Prevents unfair discrimination as it ensures that the workforce represents the demographics of the country.
- Creates a framework of acceptable employment practices/affirmative action measures.
- Encourages diversity in business by employing people from various racial backgrounds.
- Businesses are in a better position to negotiate contracts with the government/Impacts positively of BEE ratings of businesses
- Certified psychometric tests may be used to assess applicants/employees to ensure that suitable.

##### AND/OR

##### Negatives/Disadvantages

- Expensive to train/employ someone who knows little about the Act.
- Fines/Penalties for non-compliant businesses may be expensive for the business.
- Diversity in the workplace may lead to conflict/unhappiness.
- Often positions go unfilled because there are no suitable EE candidates.
- Skilled people from designated groups may demand higher salaries which increase salary expenses.
- Job hopping of skilled/trained EE appointees may increase staff turnover.
- Increased administration burden, as businesses must compile/submit employment equity reports every two years.
- Employers have to appoint one or more senior managers to ensure the implementation of the plan, which increases salary expenditure
- Businesses must submit a compliance certificate before they can conduct business with state businesses
- Businesses are sometimes pressurised to appoint an unsuitable EE person to meet EE requirements.
- Other groups may not respect the knowledge/skills/experience of an EEA appointment and it may lead to conflict.

**Penalties for non-compliance with the EEA**

- Businesses may face heavy fines for non-compliance.
- They can be ordered to pay compensation and damages to the employee.
- Labour inspectors may investigate/inspect/ask questions about complaints
- Labour inspectors may conduct onsite visits, to interview employees which can create a bad image for the business.
- A compliance order may be issued to businesses that do not comply with the EEA.
- Businesses may be brought before the Labour Court if compliance orders are not adhered to/no efforts made to reach targets.
- The Department of Labour may block non-compliant companies from doing business with the government.

**Actions regarded as non-compliant in terms of the EEA**

- Not employing a young woman because she would want to have children in future.
- Refusing to employ a person because he/she has strong religious beliefs/has a disability
- Doing HIV testing unless justified by the Labour Court.
- Denying people access to the workforce based on gender/race/culture/etc. and treating them unfairly.

**Ways in which businesses can comply with the EEA**

- Businesses must guard against discriminatory appointments.
- Promote equal opportunities and fair treatment
- Implement an employment equity plan.
- Implement affirmative action measures to redress disadvantages experienced by designated groups.
- Reasonable accommodation of people from designated groups
- Ensure that there is equal representation of all racial groups in every level of employment.
- Compile employment equity plans that indicate how they will implement affirmative action.
- Ensure that affirmative action measures promote diversity in the workplace.
- Prepare an employment equity plan in consultation with employees.
- Ensure that diversity/inclusivity in the workplace is achieved.
- Submit the employment equity plan to the Department of Labour
- Retain designated groups, including skills development of such groups.
- Assess the racial composition of all employees, including senior management.
- Clearly define the appointment process, so that all parties are well informed.
- Use certified psychometric tests to assess applicants/employees to ensure that suitable candidates are appointed
- Conduct medical/psychological tests fairly to employees/when deemed necessary.
- Assign one or more senior managers to ensure implementation and monitoring of the employment equity plan.
- Eliminate barriers that have an adverse impact on designated groups.
- Retain/Develop/Train designated groups, including skills development.
- Regularly report to the Department of Labour on progress in implementing the plan.
- Display a summary of the Act where employees can clearly see/have access to the document.
- Restructure/Analyse current employment policies/practices/procedures to accommodate designated groups
- Employees must be paid equal for work of equal value.

## 4 Basic Conditions of Employment Act/BCEA

### Purpose of the BCEA

- Provides clear terms and conditions of employment for employers and employees.
- Set minimum requirements/standards for the employment contract.
- Advance economic development and social justice
- Regulates the right to fair labour practices as set out in the Constitution.
- Regulates the variations of basic conditions of employment.
- Adheres to the rules and regulations set out by the International Labour Organisation

### Impact of the BCEA

#### Positives/Advantages

- Creates a framework of acceptable employment practices e.g., work hours, leave, etc.
- Promotes fair treatment of employees in business.
- Encourages consultation between employers and employees.
- Outlines minimum requirements that form the basis of employment contracts.
- Work hours are specified so that the employer cannot exploit employees.
- The rules and regulations are very specific, which clearly guides the employer on how to deal with employment issues.
- Employees are permitted to consult labour unions in cases where the BCEA conditions are violated.
- Employees may submit complaints to labour inspectors who can address it.

#### AND/OR

#### Negative/Disadvantages

- Developing/Drafting a formal/legal employment contract may be time-consuming/costly.
- Businesses may regard employment contracts negative and may not implement it, which result in non-compliance/penalties.
- No employer may force an employee to work more than 45 hours in a week. This may result in reduced productivity.
- Hiring cheap labour is no longer possible, so businesses cannot exploit workers.
- BCEA forces businesses to comply with many legal requirements, which may increase labour costs.
- Businesses not complying with the Act, may be charged with high penalties, which may affect their cash flow negatively.
- Businesses may consider the provisions of the BCEA as unimportant and an unnecessary administrative burden that increase operating costs.

#### Actions regarded as non-compliant in terms of the BCEA

- Forbidding workers to discuss wages/salaries with co-workers.
- Preventing workers from having access to employment contracts.
- Refusing to accept a valid medical certificate of a sick worker.
- Refusing to grant a worker family responsibility leave to support a sick family member

#### Penalties businesses may face for not complying with the BCEA

- Labour inspectors may serve a compliance order by writing to the Department of Labour.
- Labour inspectors may investigate/inspect/ask questions about complaints and remove records as evidence.
- Businesses may be taken to the labour court for a ruling.
- Businesses that are found guilty of non-compliance may face heavy fines/ penalties.
- They can be ordered to pay compensation and damages to the employee.
- The Director General may agree/change/cancel the compliance order.



### Ways in which businesses can comply with the BCEA

- Workers should only work 9 hours per day in a 5 day work week./8 hours per day in a 6 day work week./Overtime should not exceed 10 hours per week.
- Workers can take up to six weeks paid sick leave during a 36-month cycle
- Workers must receive double if they work during public holidays/Sunday
- They must have a break of 60 minutes after five hours of work
- Businesses should not employ children under the age of 16.

### Provisions of the BCEA

#### Hours of work/Work hours

- Workers may not work for more than 45 hours in any week.
- Workers may not work for more than 45 hours in a week.
- Workers may work nine hours a day if they work five days or less per week
- Night work performed after 18:00 and before 6:00 the next day by agreement, must be compensated by allowance/reduction of work hours.
- Ordinary work hours may be extended by agreement by a maximum of 15 minutes per day/maximum of sixty minutes per week to complete duties when serving the public.
- Ordinary work hours may be reduced to a maximum of 40 hours per week/8 hours per day.

#### Overtime

- Workers must agree to work overtime.
- Workers cannot work more than three hours overtime per day/10 hours per week.
- Overtime must be compensated as follows:
- One and half times the normal rate of pay for overtime worked on week days and Saturdays.
- Double the normal rate of pay for overtime worked on Sundays and public holidays.
- Overtime must be paid either at specified rate for overtime or an employee may agree to receive paid time off.
- Minister of Labour may prescribe the maximum permitted working hours, including overtime, for health and safety reasons for a certain category of work.

#### Leave

### Types of leave

#### Annual leave

- Workers are entitled to 21 consecutive days annual leave per year or one day for every 17 days worked, one hour for every 17 hours worked.
- An employer can only pay a worker in lieu/instead of granting leave if that worker leaves the job/ terminates the employment contract.
- Annual leave must be granted within six (6) months after the leave cycle ended.

#### Sick leave

- Employees are entitled to thirty (30) days/six (6) weeks paid sick leave in a three (3) year/thirty six (36) months cycle.
- One (1) day paid sick leave for every twenty six (26) days worked during the first six (6) months of employment.
- A medical certificate may be required before paying an employee who is absent for more than two (2) consecutive days/who is frequently absent.
- Thereafter, they may take all thirty (30) days sick leave, provided they meet the legal requirements.



### Maternity leave

- A pregnant employee is entitled to four consecutive months' leave.
- A pregnant employee may not be allowed to perform work that is hazardous to her unborn child.
- The starting date is usually any time from four weeks before the expected date of birth or on advice of a doctor/midwife.

### Family responsibility leave

- Three to five (3 to 5) days paid leave per year on request in the event of the death of the employee's spouse/life partner/parent/ adoptive parent/ grandparent/child/adoptive child/grandchild/sibling.
- An employer may require reasonable proof, before granting this leave.

### Parental leave

- An employee who is a parent is entitled to ten (10) consecutive day's parental leave after the birth of his/her child irrespective of gender.
- Parental leave is unpaid but the employee/parent may claim from the Unemployment Insurance Fund/UIF.
- The employer must be informed/notified at least one month before the expected due date of birth.
- Adoption leave is applicable to the adoption of a child below the age of two (2) years.
- One parent of the adopted child is entitled to ten (10) weeks adoption leave to take of the child, while the other parent is entitled to ten (10) consecutive day's normal parental leave.
- Commissioning parental leave is only applicable to surrogate motherhood where one parent is entitled to ten (10) weeks commissioning parental leave to take of the child, while the other parent is entitled to ten (10) consecutive day's normal parental leave.

### Meal breaks and rest periods

- Workers must have a meal break of 60 minute after five continuous hours of work.
- This can be reduced to 30 minutes by written agreement, when working less than 6 hours per day.
- A worker must have a daily rest period of 12 continuous hours/a weekly rest period of 36 continuous hours which must include Sundays.

### Public holidays

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

### Termination of employment

- A contract of employment may only be terminated following one week's notice, if the worker has been employed for six months or less.
- A minimum of four weeks' notice must be given, if the worker has been employed for a year or longer.
- The employee must be given notice in writing.
- An employee who is retrenched/ dismissed for restructuring reasons is entitled to one week's severance pay for every year of service.

### Child and forced labour

- It is illegal to employ a child younger than 15 years of age.
- It is also illegal to force someone to work.
- Businesses may employ children over the age of 15 years, if employment is not harmful to their health/well-being/education/moral and social development/ minors under 18 years of age may not do dangerous work/work meant for an adult.

### Provisions of the BCEA

#### Revised as follows:

- Regulation of working time: Ordinary hours of work/ Overtime/Meal Intervals/Sunday work/Public holidays
- Leave: This includes all types of leave
- Particulars of employment and remuneration
- Termination of employment
- Prohibition of employment of children and forced labour



## 5 Compensation for Occupational Injuries & Diseases Act/COIDA

### Purpose of COIDA

- Provides a comprehensive protection to employees who injured in the course of performing their duties.
- COIDA applies to all casual and full-time workers who become ill/injured/ disabled/killed due to a workplace accident/disease
- It excludes workers who are guilty of wilful misconduct/workers working outside South Africa for at least twelve months/members of the SA Defence Force/Police services.
- It provides for the establishment of a Compensation Board whose function is to advise the Minister of Labour on the application/provisions of COIDA.

### Impact of the COIDA on businesses

#### Positives/Advantages

- Promotes safety in the workplace.
- Employees do not contribute towards this fund.
- Claiming processes are relatively simple
- Eliminates time and costs spent on lengthy civil court proceedings
- Any compensation to an employee/the family is exempt from income tax.
- Employers are protected from financial burden should an accident occur in the workplace provided that the employer was not negligent
- Makes businesses more socially responsible as they cannot just employ workers at random in dangerous working conditions.
- Workers are treated with dignity and respect as businesses view them as valuable assets and not just as workers.
- Covers all employees at the workplace if both parties meet all the necessary safety provisions in the Act.
- Creates a framework for acceptable employment practices and safety regulations.
- Supply administrative guidelines/mechanisms for dealing with/processing claims.
- Employees are compensated financially for any injury/disability resulting from performing their duties at their workplace.
- In the event of the death of an employee as a result of a work-related accident/ disease, his/her dependent(s) will receive financial support.
- Employees receive medical assistance provided there is no other medical assistance option./Cannot claim medical assistance from the fund and medical aid.
- Medical expenses/Other types of compensation are paid to employees and/or their families depending on the type/severity of the injuries.
- Employers have to pay a monthly amount to the Compensation Fund depending on the number of employees/the level of risk they are exposed to.

#### AND/OR

#### Negative/Disadvantages

- Claiming processes can be time consuming.
- Domestic/Military workers are not covered.
- Workers who are temporarily/permanently employed in foreign countries are not covered.
- Employers may be forced to pay heavy penalties if they are found guilty of negligence/not enforcing safety measures.
- Implementation processes/procedures required by the Act may be expensive.
- Procedures required by this Act may be costly as paperwork places an extra administrative burden on businesses.
- Employers have to register all their workers/make annual contributions to COIDA, which may result in cash flow problems.

**Actions regarded as non-compliant in terms of the COIDA**

- Employers who bribe/prevent employees from reporting the accident/injury.
- Providing false information about previous, serious accidents/occupational diseases.
- Employers who do not contribute to the Compensation fund.
- Employers who do not allow claims for injuries, discriminates against injured employees.
- Employers that take too long to process claims/delay the claiming process.
- Compensation that is set off against any debt of the person entitled to the compensation.

**Penalties for non-compliance with COIDA**

- Businesses can be fined for refusing to lodge the claim/contravening the Act.
- Businesses can be forced to make large payments if it did not take the necessary precautions according to the Act.
- They may be forced to pay any recovery costs required by the Compensation Fund.
- Employees may take businesses to court for not registering them with the Commissioner of the Compensation Fund.
- If businesses are found guilty of any misconduct, they will have to pay large penalties/face imprisonment.

**Ways in which businesses can comply with the COIDA**

- Businesses should provide a healthy/safe working environment
- Ensure that the premises/equipment/machinery is in good working condition.
- Register with the Compensation Commissioner and provide the particulars of the business.
- Report all incidents causing death/injury/illness of employees.
- Levies must be paid to the Compensation Fund.
- Keep records of employees' income and details of work for four years.
- Submit returns of earnings by no later than 1 March annually.
- Allow regular assessment of the workplace by inspectors in order to determine the level of risk their employees are exposed to.
- Employers may not make deductions for COIDA from employees' remuneration packages.
- Businesses must ensure that claims are lodged within twelve months of the date of the accident.





## 6 Broad Based Black Economic Employment Act/BBBEE

### Purpose of BBBEE

- Enable wealth to be spread more broadly across all population groups.
- Outline areas that would give the government a platform for bringing equitable spread of wealth.
- Allows for the development of Codes of Good Practice.
- It aims at targeting inequality in the South African economy.

**NOTE:** You must first know the implications of BBBEE pillars so that you can understand the impact BBBEE on businesses.

### REVISED BBBEE PILLARS

- Management control
- Skills development
- Ownership
- Enterprise and supplier development (ESD)
- Socio-economic development/social responsibility

### Implications of the revised BBBEE pillars on businesses

#### Management control

#### Implication of management control on businesses

- Business must ensure that transformation is implemented at all levels.
- Appoint black people in senior executive positions/to management.
- Involve black people in the decision-making processes.
- Ensure that black females are represented in management.
- Businesses score points in both management and ownership when selling more than 25 % of their shares to black investors so that some of them can become directors.
- Due to a shortage of skilled black managers/directors, some businesses find it difficult to make appointments.
- Businesses are directly penalised for not implementing this pillar.

**NOTE:** The word “implication” in this context means “what businesses should do in order to comply with this Act and what are the things that are preventing them from implementing this Act.

**NOTE** that the last sentences of EACH pillar speak to things that prevent businesses from implementing the pillar.

### Ways in which businesses could apply management control in the workplace

- Business must ensure that transformation is implemented at all levels.
- Appoint black people in senior executive positions/to management.
- Involve black people in the decision-making processes.
- Ensure that black females are represented in management.
- Businesses score points in both management and ownership when selling more than 25 % of their shares to black investors so that some of them can become directors.



### **Skills development**

#### **Implication of skills development on businesses**

- Business must engage black employees in skills development initiatives.
- Provide learnerships and learning programmes to black employees.
- Business must contribute 1% of their payroll to fund the skills development programmes.
- Business benefits from the increased pool of skilled/trained workers.
- Business must go the extra mile to train staff where learnerships are not offered.
- Productivity is compromised as mentors/coaches have to find the time to participate in learnerships/training.

#### **Ways in which businesses could apply skills development in the workplace**

- Business must engage black employees in skills development initiatives.
- Provide learnerships and learning programmes to black employees.
- Business must contribute 1% of their payroll to fund the skills development programmes.
- Business benefits from the increased pool of skilled/trained workers

### **Ownership**

#### **Implication of ownership on businesses**

- Business should include black people in shareholding/partnerships/franchises.
- Encourage small black investors to invest in big companies and share ownership.
- Exempted Micro Enterprises (EMEs) with an ownership of 50% or more of black people are promoted to level 3 of the BEE scorecard.
- More opportunities are created for black people to become owners/ entrepreneurs.
- Large businesses should form joint ventures with small black owned businesses and share business risks.
- Businesses sometimes find it difficult to locate suitable black business partners/ shareholders.
- Many black people cannot afford shares in companies/contributions to partnerships.

#### **Ways in which businesses could apply ownership in the workplace**

- Business should include black people in shareholding/partnerships/franchises.
- Encourage small black investors to invest in big companies and share ownership.
- Exempted Micro Enterprises (EMEs) with an ownership of 50% or more of black people are promoted to level 3 of the BEE scorecard.
- More opportunities are created for black people to become owners/ entrepreneurs.
- Large businesses should form joint ventures with small black owned businesses and share business risks



## **Enterprise and supplier development (ESD)**

### **Implication of Enterprise and supplier development (ESD) on businesses**

- Business must create jobs as ESD promotes local manufacturing.
- Identify black owned suppliers that are able to supply goods and services.
- Outsource services to suppliers that are BBBEE compliant.
- Businesses are encouraged to invest/support black owned SMMEs.
- Develop the business skills of small/black owned suppliers, e.g. sales techniques, legal advice, etc.
- Support the cash flow of small suppliers by offering them preferential terms of payment.
- Businesses should invest in/support black owned SMMEs
- Invest in/Support black owned SMMEs by contributing loans/donations/consulting services/advice/entrepreneurial programmes
- SMMEs will be encouraged to use their own business initiatives to make them sustainable.
- Develop and implement a supplier development plan/supply chain.
- Small/Large businesses may not be able to afford enterprise development investment/support.
- Black owned SMMEs may become too reliant on support from other businesses/ unable to take their own initiatives.
- BBBEE suppliers may be without good workmanship.
- Smaller businesses that are not BBBEE compliant lose business.
- Businesses are forced to choose from a smaller pool of suppliers.

### **Ways in which businesses could apply ESD in the workplace**

- Business must create jobs as ESD promotes local manufacturing.
- Identify black owned suppliers that are able to supply goods and services.
- Outsource services to suppliers that are BBBEE compliant.
- Businesses are encouraged to invest/support black owned SMMEs.
- Develop the business skills of small/black owned suppliers, e.g. sales techniques, legal advice, etc.
- Support the cash flow of small suppliers by offering them preferential terms of payment.
- Businesses should invest in/support black owned SMMEs
- Invest in/Support black owned SMMEs by contributing loans/donations/consulting services/advice/entrepreneurial programmes
- SMMEs will be encouraged to use their own business initiatives to make them sustainable.
- Develop and implement a supplier development plan/supply chain.

## **Social responsibility/Socio-economic development**

### **Implications of social responsibility/socio-economic development on businesses**

- Businesses should focus on critical areas which can affect growth and development in the country e.g. environmental awareness/education/ housing, poverty/unemployment etc.
- They should distribute scarce CSI resources to selected beneficiaries in the community.



## Impact of the BBBEE on businesses

### Positives/Advantages

- Encourages businesses to address the demands for redress/equity directly.
- Provides a variety of business codes to improve employment equity.
- Provides for human resources development through training and development.
- A good BEE rating improves the image of the business.
- Fronting is discouraged, as it may lead to the disqualification of a business's entire scorecard/BBBEE status.
- Promotes enterprise development, by developing entrepreneurial skills of designated people to start their own businesses
- Businesses that comply with BBBEE regarding the pillars will be rated high on the BEE scorecard/may get government tenders/may attract other BBBEE business partners/-suppliers.
- Businesses will have a good overview on how it is performing in comparison to other businesses in the rest of the country.
- By focusing on BBBEE, the business will show commitment towards the social/education/economic developments in the community/country.
- Once rated, the business will understand how to develop BBBEE strategies that will increase its BBBEE ratings on an annual basis.
- Share prices of BBBEE compliant businesses are likely to increase as they attract more business.
- Businesses that support Small, Micro, Medium Enterprises (SMMEs), may increase their own BBBEE ratings
- Complying with BBBEE requirements gives businesses experience/exposure to be able to provide better employment opportunities/staff development.

### AND/OR

### Negative/Disadvantages

- Businesses could experience large financial implications/penalties if they do not comply with BBBEE.
- Processes may lead to corruption/nepotism if not monitored properly.
- Processes and procedures may be costly for a business as there are many legal requirements for scoring enough points to be compliant.
- Investment/Ownership issues can cause unhappiness amongst existing shareholders/owners.
- Provides for preferential procurement, so certain businesses may be excluded from supplying goods/services.
- Businesses will have to spend money in areas covered by five BBBEE pillars to obtain a good BBBEE rating.
- Businesses that want to do business with the government must have their BEE status assessed annually.
- Businesses have to go through the process of having their BBBEE compliance measured/verified by an independent BEE verification agency.
- Many businesses have been disadvantaged due to BBBEE ratings as they may not be able to meet all the scoring.

**Actions regarded as non-compliant in terms of the BBBEE**

- Failing to implement affirmative action to meet BBBEE responsibilities.
- Promoting unsuitable people into a management positions at the expense of qualified PDP's.
- Refusing to award tenders to black suppliers who are BEE compliant.

**Penalties for non-compliance with the BBBEE**

- Businesses may face imprisonment for non-compliance and fronting practices.
- The penalty could be a fine of up to 10% of the company's annual turnover.
- Government will cancel any contract awarded that was based on false information regarding B-BBEE status.
- A business can be banned from participating in government contracts for a period of 10 years.
- Business licenses may not be renewed and authorisations may not be issued
- Businesses that fail to achieve at least a minimum 40% of compliance with ownership, skills development and new enterprise and supplier development will be automatically downgraded the by one level.

**Ways in which businesses can comply with the BBBEE**

- Businesses must appoint black people in managerial positions (management control)
- Businesses must sell shares to black employees/people. (ownership)
- Send black people for black for skill development training. (skills Development)
- Outsource their services to BEE compliant suppliers. (ESD)
- Implement affirmative action when making appointments.
- Develop small business /SMME's through ESD.
- Improve the standard of living of the communities in which they operate. (SR)

• **Distinction between BEE and BBBEE**

<b>BLACK ECONOMIC EMPOWERMENT (BEE)</b>	<b>BROAD BASED BLACK ECONOMIC EMPOWERMENT (BBBEE)</b>
- It is a government policy√ which may not be enforced.√	- It is an Act√ that is enforced/must be complied with by businesses.√
- Benefits only a few previously disadvantaged people√ in the economy.√	- Encourages a wider group of previously disadvantaged people/black women/people who are physically challenged/youth/people in rural areas√ to participate in the economy.√
- Few previously disadvantaged individuals share in the wealth√ of the economy.√	- Aims at distributing the country's wealth√ across a broader spectrum of society.√
- Focuses only on three pillars√ that did not include all previously disadvantaged people.√	- Focuses on seven/five pillars√ which includes all sectors of the society, especially the previously disadvantaged.√





## 7 National Credit Act

### Purpose of the NCA

- Promote a fair but competitive credit market.
- Makes provision for the establishment of the National Credit Regulator/NCR
- Promotes the social and financial interest of consumers.
- Ensure that consumers know what is included in their credit contracts.
- Ensure registrations of credit bureau and debt counselling services.
- Prevent discrimination and ensure credit is available to all consumers.

### Impact of the NCA on businesses

#### Positives/Advantages

- Lower bad debts resulting in better cash flow.
- Protects businesses against non-paying consumers.
- Authorised credit providers may attract more customers.
- Leads to more customers through credit sales as they are now protected from abuse.
- Prevents reckless lending and prevents businesses from bankruptcy.
- Increases cash sales as credit can only be granted to qualifying customer.
- The whole credit process is transparent e.g. both businesses and customers know their responsibilities.
- Businesses do thorough credit checks and receive up-to-date documentation from the consumer as proof that they can afford the repayment.
- Credit bureau information is made available to businesses so that they can check the credit worthiness of consumers before granting credit.

#### AND/OR

#### Negative/Disadvantages

- Businesses can no longer carry out credit marketing.
- Businesses struggle to get credit such as bank loans/overdrafts
- Businesses that do not comply with the NCA may face legal action.
- Debt collection procedures are more complex and expensive.
- Fewer customers buy on credit as it is more difficult to obtain credit.
- Increases the administration burden on credit providers.
- Leads to loss of sales as many consumers may no longer qualify to buy on credit.
- The paperwork and administrative process required by the act are costly and time consuming.
- The business needs to appoint additional staff to deal with the extra administration.
- Should the credit agreement be declared reckless the business can forfeit the outstanding debt and the goods.
- Businesses that are official credit providers, must submit a compliance report every year.
- A business must make sure that all attempts have been made to recover the debt before blacklisting the customer.
- Credit providers cannot collect from consumers who are under debt reviews.
- More working capital is needed as businesses cannot sell many goods on credit due to stricter credit application processes.

#### Actions regarded as non-compliant in terms of the NCA

- Refusing credit to customers based on gender/race.
- Charging different interest rates to customers based on gender/race
- Blacklisting customers without making efforts to recover the debt

**Penalties/consequences for non-compliance with the NCA**

- The business may not demand payment, sue or attach the clients/consumers salaries/assets.
- The business may not charge any fee/interest/other charges under that specific credit agreement.
- The court may declare the granting of credit by the business reckless and may order consumers not to repay the credit/or part thereof to the business
- The National Credit Regulator may impose a fine/penalty on the business for non-compliance.
- The business will bear all costs of removing the negative information of clients/ consumers who were blacklisted as a result of reckless lending.

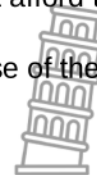
**Ways in which businesses can comply with the NCA**

- Offer applicants pre-agreement statements.
- Disclose all costs of loan/No hidden costs should be charged/added
- Obtain credit records/checks of clients before granting loans.
- Businesses should be registered with the National Credit Regulator.
- Submit an annual compliance report to the National Credit Regulator.
- Conduct affordability assessment to ensure the consumer has the ability to meet his/her obligation.
- Conduct credit check with a registered credit bureau and consult with National Credit Register.
- Businesses must have procedures in place to comply with the provision of the Financial Intelligence Centre Act (FICA).
- Credit providers must have procedures in place to comply with the provision of the Financial Intelligence Centre Act (FICA).
- Verify the identity of clients, report suspicious transactions/train staff on their obligations in terms of FICA.

**Consumer rights in term of the NCA**

Consumers have a right to:

- Apply for credit and to be free from discrimination.
- Receive Information in plain and understandable language.
- Receive documents as required by the Act.
- Receive pre-agreement documentation before concluding any credit transaction
- Obtain reasons for credit being refused.
- Fair and responsible marketing.
- Access and challenge credit records and information.
- Choose which goods they will buy and return such goods if they are not satisfied.
- Surrender/Return goods to the credit provider in order to settle the outstanding amount/debt.
- Apply for debt review/counselling if the consumers cannot afford to repay their debts.
- Receive protection of their personal information.
- Receive protection from being held accountable for the use of their credit facility after they reported the loss/theft.
- Refuse a credit limit increase



## 8 Consumer Protection Act

### Purpose of the Consumer Protection Act

- Promotes responsible consumer behaviour.
- Establishes national standards to protect consumers.
- Establishes a National Consumer Commission (NCC)
- Establishes national standards to protect consumers.
- Promotes and protects the economic interests of consumers by providing access to information.
- Promotes fair/accessible and sustainable places for people to sell their products.
- Promotes consistent laws relating to consumer transaction and agreement.
- Promotes the rights and full participation of historically disadvantaged individuals as consumers.
- Promotes consumer safety by protecting them from hazardous products/services.
- Provides guidelines for better consumer information and to prohibit unfair business practices.
- Ensures that consumers have access to information they need to make informed choices
- Ensures that consumers are not misled/deceived by suppliers of goods/services
- Empowers consumers to take legal action if their rights are not upheld.
- Strengthens a culture of consumer rights and responsibilities.
- Protects consumers against contracts that include unfair terms which limit the liability of suppliers.
- Protects consumers against dishonest businesses such as fly-by-night franchisors
- Allows for consumers and businesses to resolve disputes fairly/effectively.

### Impact of the CPA on businesses

#### Positives/Advantages

- Businesses may be safeguarded from dishonest competitors.
- Businesses may be protected if they are regarded as consumers.
- Prevents larger businesses from undermining smaller ones.
- May gain consumer loyalty, if they comply with CPA.
- Enables businesses to resolve disputes fairly through the National Consumer Commission/Consumer Court/Industrial ombudsmen
- Businesses may build a good image if they ensure that they do not violate consumer rights.

#### AND/OR

#### Negatives/Disadvantages

- Confidential business information may become available to competitors.
- Penalties for non-compliance may be very high.
- Businesses may feel unnecessarily burdened by legal processes.
- They have to disclose more information about their products and processes/services
- Processes and procedures required by CPA can be expensive and time consuming.
- Consumers can take advantage of a business and return goods when it is not necessary to do so
- Staff need to be trained /Legal experts need to be consulted, which can increase costs
- Many business documents need to be simplified /revamped at extra cost as consumers have a right to receive contracts in simple/understandable language.
- Administration costs increase as legal contracts need to be worded in plain language /pitched at the level of the consumer
- Businesses may need insurance against claims from consumers /provisions in the Act increase risks for unforeseen claims and lawsuits.



- Businesses have to replace/repair faulty items/refund money if the fault occurs within six months after purchase.
- Supply chain management in stock levels will have to change, as defective goods have to be replaced within six months at the request of the consumer.
- Information technology systems need to be improved as the retailer must keep more detailed records of interactions with consumers /be able to report to the National Consumer Commission.

#### **Actions regarded as non-compliant in terms of the CPA**

- Denying customers proper information about the product/services.
- Treating customers differently based on gender/age/race.
- Charging unfair prices for the same goods and services.
- Varying the quality of goods when selling in different areas.
- Prioritising any consumer group over another when marketing/selling

#### **Penalties for non-compliance with the NCA**

- A contract may be rendered void or a fine or term of direct imprisonment may be imposed.
- Businesses may face fines or imprisonment for a period not exceeding 10 years.
- Government agencies may conduct audits, enact fines or even dissolve your business entirely.
- Businesses will be forced to compensate consumers in line with the extent to which their rights have been violated.

#### **Ways in which businesses can comply with the CPA**

- Disclose prices of all products on sale.
- Provide adequate training to staff on the CPA.
- All agreements must provide for a five-day cooling off period.
- Ensure that goods/services offered are standardised/of the same quality.
- Comply with the requirements regarding promotional competitions.
- Comply with requirements regarding the display of information on labels/ packaging.
- Display the name of the business on all business documents, e.g. invoices/contracts.
- Bundling of goods/services should benefit consumers, e.g. offering a cell phone and a tablet at a special price.
- Implement measures that will facilitate complaints, e.g. suggestion boxes.



## Consumer rights of the Consumer Protection Act

### Right to choose

Consumers have the right to:

- choose suppliers and/or goods.
- shop around for the best prices.
- return goods that are unsafe/defective for a full refund
- reject goods that are not the same as the sample marketed.
- cancel/renew fixed term agreements.
- request written quotations and cost estimates.

### Right to privacy and confidentiality

- Consumers have the right to stop/restrict unwanted direct marketing.
- They can object to unwanted promotional e-mails/telesales.
- They have the right to stop/lodge complaints about the sharing of their personal details.

### Right to fair and honest dealings

- Suppliers may not use physical force or harass customers.
- Suppliers may not give misleading/false information.
- Businesses may not promote pyramid schemes and/or chain-letter schemes
- Businesses may not overbook/oversell goods/services and then not honour the agreement.

### Right to information about products and agreements/Right to disclosure and information

- Contracts and agreements should be in plain language and easy to understand.
- Businesses should display prices which are fully inclusive disclosing all costs.
- Businesses should label products and trade descriptions correctly
- Consumers may request the unit and bulk price of the same product.
- If two prices for the same product are displayed, consumers should pay the lower price.
- All information related to the country of origin, expiry dates/ingredients of the products should be disclosed.√

### Right to fair/responsible marketing/promotion

- Businesses should not mislead consumers on pricing, benefits/uses of goods.
- Consumers may cancel purchases made through direct marketing within five working days/cooling off-period.
- All information related to the country of origin/expiry dates/ingredients of the products should be disclosed/clearly labelled.

### Right to accountability from suppliers

- Consumers have the right to be protected in lay-bye agreements.
- Businesses should honour credit vouchers and prepaid services.

### Right to fair/just/reasonable terms and conditions

- Businesses should provide consumers with written notices of clauses that may limit consumer rights.
- Businesses may not market/sell goods at unfair prices.



**Right to equality in the consumer market place**

- Businesses should not limit access to goods and services.
- Businesses may not vary the quality of their goods to different consumers.
- Businesses should not discriminate when marketing their products and services in different areas/places.
- Businesses may not charge different prices for the same goods/services.
- Quality of goods may not vary when supplied to different consumers.

**Right to return goods/have goods replaced/claim a refund**

- Goods that are unsafe/ defective may be replaced by the supplier.
- Faulty items may be returned for a full refund.
- They may return faulty items if the fault occurs within six months after purchasing the item.

**Right to complain**

- Consumers may use various methods/channels to complain about poor quality goods/services.
- They can complain via customer care desks/consumer hotlines/ombudsman etc.

**Right to privacy/confidentiality**

- Consumers have the right to stop/restrict unwanted direct marketing.
- They can object to unwanted promotional e-mails and telesales.
- They have the right to stop/lodge complaints about sharing personal details.

**Right to fair value/good quality/safety**

- Businesses should provide consumers with written notices of clauses that may limit consumer rights.
- Businesses may not market/sell goods at unfair prices.

**Right to fair/honest dealings**

- Suppliers may not use physical force/harass customers.
- Businesses cannot promote pyramid/chain-letter schemes.
- They may not give misleading/false information about the product/service/ transaction.
- Businesses may not overbook/oversell goods/services and then not honour the agreement.

**Right to fair value/good quality/safety**

- Consumers may demand quality services/goods.
- They may receive an implied/written warranty.
- Cancel /renew fixed term agreements
- To be informed about hazardous/dangerous products
- Reject goods that are not the same as the sample marketed
- Return faulty items if the fault occurs within six months after purchasing the item







**BUSINESS STUDIES  
GRADE 12  
TERM ONE  
REVISED CHAPTER 4**

**NOTES ON CREATIVE THINKING AND PROBLEM SOLVING**

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**This chapter consists of 9 pages**



**CONTENT DETAILS FOR TEACHING, LEARNING AND ASSESSMENT PURPOSES**  
 Refer to page 28 and 29 of the 2020 exam guidelines

**PROBLEM-SOLVING**

Learners must be able to:

- Define/Elaborate on the meaning of problem-solving and decision making.
- Explain/Differentiate/Distinguish between problem-solving and decision making.
- Identify/Name/Outline/Explain/Discuss the problem solving steps.
- Apply the problem-solving steps from given scenarios/case studies.
- Identify/Name the following problem solving techniques from given scenarios/statements:
  - Delphi technique
  - Force field analysis
  - Brainstorming
  - Nominal group technique
- Explain/Advise businesses on how they can apply the above-mentioned problem-solving techniques to solve complex business problems.
- Discuss/Evaluate/Analyse the impact (positives/advantage and/or negatives disadvantages) of the above-mentioned problem-solving techniques.

**CREATIVE THINKING**

- Define/Elaborate on the meaning of creative thinking.
- Explain the benefits/advantages of creative thinking in the workplace.
- Explain/Recommend ways businesses can create an environment that promotes creative thinking.

**Terms and definitions**

Term	Definition
Creative	To be original, inventive or resourceful.
Generate	To produce or create.
Creativity/	Ideas featuring new and original methods.
Creative thinking	The ability to think of original, varied new ideas or new approaches
Decision-making	Process of analysing a situation to identify strategies to bring about change.
Problem	Experiencing uncertainty or difficulty in achieving what we want to achieve.
Problem-solving	Gathering facts that include problem findings and problem shaping.
Problem-solving techniques	Various problem solving techniques which businesses used to solve business related problems.



# 1 PROBLEM SOLVING

## 1.1 Meaning of problem solving

- It is the process of analysing a situation to identify strategies that can be used to change the situation. Problem solving requires creative thinking.
- Problem solving is a mental process that involves problem finding, which is the ability to identify the problem.
- It also involves problem shaping, which is the ability to break-down the problem in such a way that a clear solution can be found.

## 1.2 Meaning of decision making

- Decision making is a choice made by using one's judgement.
- It is also aimed at finding a solution to a problem by choosing a best solution or course of action.

## 1.3 Differences between problem solving and decision making

DECISION MAKING	PROBLEM SOLVING
-It is often done by one person/a member of senior management who makes it authoritarian.	-Problems can be solved by a group/ team or an individual team member.
-Various alternatives are considered before deciding on the best one.	-Alternative solutions are generated/ identified and critically evaluated.
-It is part of the problem solving cycle as decisions need to be taken in each step.	-Process of analysing a situation to identify strategies to bring about change.

## 1.4 Problem solving steps

- Identify the problem.
- Define the problem.
- Identify possible solutions to the problem.
- Select the most appropriate alternative.
- Develop an action plan.
- Implement the suggested solution/action plan.
- Monitor the implementation of the solution/action plan.
- Evaluate the implemented solution.
- Formulate strategy
- Implement strategy
- Evaluate strategy

**NOTE: Steps can be in any order**





## 1.5 Application/Discussion of problem solving steps

### Identify the problem

- Acknowledge that there is a problem
- Identify the exact problem
- Break down the problem into smaller parts that are easier solve separately

### Define the problem

- Name the problem by stating exactly what the problem is.
- Find different ways of defining the problem.
- Define the possible causes of the problem
- The nature of the problem must be precise.
- Gather as much information as possible to establish the cause of the problem.

### Identify alternative solutions

- Identify all different possible solutions
- Use creative thinking strategies to generate a wide range of solutions
- Focus on generating as many ways as possible through using creative thinking.
- Collect as many ideas as possible and find the best idea/decide on one strategy to follow.

### Evaluate alternative solutions

- Use critical evaluation and analytical skills to evaluate each solution.
- Consider the advantages and disadvantages of each alternative solution.

### Choose the best solution

- Set criteria for the best solution, in terms of aspects such as time/cost/risk involved
- Identify which solution will be used
- The best solution should match the size and the resources of the business.
- If the solution is not appropriate, the business should go back to defining the problem.

### Formulate/Develop an action plan/strategy

- Arrange the necessary resources and delegate tasks.
- Establish a time line for implementation and set deadlines

### Implement the action plan

- Carry out the planned actions/solution.
- Communicate delegated tasks/deadlines to employees.

### Evaluate the solution/action plan

- Assess whether the problem has been solved partially or entirely
- Monitor/test the solution/action plan/strategy continuously.
- If problems emerge, they must recognise and re-formulate the problem for improved solutions in the future.



## 1.6 Problem solving techniques

- Delphi technique
- Force field analysis
- Brainstorming
- Nominal group technique

**NOTE: You only need to focus on the above mentioned problem solving techniques**

## 1.7 Application of the problem solving techniques

### Application of the Delphi technique

- Businesses must invite a panel of experts to research the complaints from customers.
- Experts do not have to be in one place and will be contacted individually.
- Design a questionnaire consisting of questions on how to improve the quality of their products and distribute it to the panel members/experts.
- Request the panel to individually respond to the questionnaire/suggest improvements to the products and return it to the business
- Summarise the responses from the experts in a feedback report.
- Send the feedback report and a second set of questions/questionnaire based on the feedback report to the panel members.
- Request panel members to provide further input/ideas on how to improve the quality of products after they have studied the results/documentation.
- Distribute a third questionnaire based on previous feedback from the second round.
- Prepare a final summary/feedback report with all the methods to improve the quality of the business's products
- The business should choose the best solution/proposal after reaching consensus.

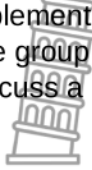
### Application of Force-Field Analysis

- Describe the current situation/problem and the desired situation.
- List all driving/pros and restraining/cons forces that will support and resist change.
- Allocate a score to each force using a numerical scale, where 1 is weak and 5 is strong.
- Weigh up the positives and negatives then decide if the project is viable.
- Choose the force with the highest score as the solution.
- If the project is viable, find ways to increase the forces for change.
- Identify priorities and develop an action plan.

### Application of brainstorming

- State/Define the business problem clearly, so that all participants/stake-holders understand the problem.
- Members state possible causes of the business problems.
- Set a time limit for each brainstorming session.
- Record/Write ideas down, where all participants can see it./Ideas may also be shared online during an E-brainstorming session.
- Use each suggestion, to inspire new thoughts/ideas.

- Do not judge/criticise/discuss the ideas, so that many ideas could be generated as quickly as possible.
- All members of the group randomly make suggestions.
- The group rates ideas according to its usefulness/success/difficulty/cost to implement.
- The group evaluates all ideas, and combines similar ones/draw up a refined list.
- Discuss a plan of action on how to implement the best ideas.



### Application of nominal-group technique

- Encourage group to clearly define the problem/to improve the quality of their products due to various complaints so that all the small groups can work on the same problem.
- The business must divide the employees into smaller groups.
- Request each employee to silently brainstorm /generate many ideas on his/her own, on how the quality of the product can be improved and to write it down.
- Each employee in the small group has the opportunity to give one of his/her idea/solution with a short explanation.
- Appoint one employee to write the ideas/solutions on a large sheet of paper/ capture solutions electronically on computer for all to see.
- Allow each employee to give a second solution until all possible solutions have been recorded.
- Encourage employees to ask clarity seeking questions.
- Discourage criticism of ideas/solutions as this may prevent others from giving their solutions.
- The business must eliminate ideas that are duplicated/ similar.
- Each employee must read through all the suggestions and anonymously rate them giving the highest points for the best solution.
- Collect the ratings and calculate total points.
- Small groups must present one solution to the large group that was deemed best according to the scores/votes in their small groups.

## 1.8 Impact of problem solving techniques

### Impact of the Delphi technique

#### Positives/Advantages

- Businesses may use a group of experts without bringing them together.
- The experts will give the business clear ideas/solutions on how to improve on productivity/profitability.
- Information received from experts can be used to solve complex business problems.
- Experts may give honest/credible opinions as they do not have a direct/personal interest in the business.
- Conflict may be avoided especially if all employees are knowledgeable and well qualified.
- Dominating employees may not take over the process as they do not form part of the problem solving process.
- It reduces noise levels in an office environment since there is no group discussion.



AND/OR



**Negatives/Disadvantages**

- It is an expensive technique to use due to high administrative costs.
- Not all experts are willing/interested to give feedback/complete questionnaires.
- Some experts might not have an in-depth knowledge of certain topics.
- Experts' suggestions may not be considered by some employees so consensus may not be reached.
- May be time consuming/complicated to analyse data received from experts.

**Impact of the Force-Field Analysis****Positives/Advantages**

- Employees feel included and understood.
- Employees develop and grow with the business.
- It provides a visual summary of all the various factors supporting and opposing a particular idea
- Informed decisions can be made as forces for and against are critically evaluated.
- Enables businesses to strengthen the driving forces and weaken the restraining forces.
- Businesses are able to have an idea of the timeline required and the requirements of additional resources.

**AND /OR****Negatives/Disadvantages**

- Requires the participation of all business units.
- It is time consuming since the business must stabilise before more changes can be made.
- The analysis developed is entirely dependent upon the skill level and knowledge of the group working on the analysis.

**The impact of brainstorming****Positives/Advantages**

- People get ideas from others and build on them.
- Stimulates creative thinking in the workplace.
- Better solutions are developed through collective contributions.
- Combinations of ideas/improvements can be chosen after all the ideas have been written down.
- Employees are motivated as they are allowed to contribute to problem solving.

**AND/OR****Negatives/Disadvantages**

- Some team members may dominate discussion.
- Discussion may result in conflict due to differences in opinion.
- Fear of criticism may prevent full participation in brainstorming sessions.
- It may lead to 'group think'/some individuals may not give their opinions.
- Brainstorming is time consuming as all stakeholders/employees may generate too many ideas which can delay decision making.

## The impact of the Nominal group technique

### Positives/Advantages

- It provides time to think about the question in silence before responding.
- Voting on the ideas is anonymous and may be more reliable/honest.
- Strong technique for preventing conformity to group pressure.
- Each team member/director has a chance to participate without interference from other team members.
- Everyone in the group is given an opportunity to contribute to the discussion, while avoiding the likelihood of one person dominating the group process.
- Enables the group to generate and clarify a large amount of ideas quickly, and democratically prioritises them.
- It encourages participants to confront issues through constructive problem solving

### AND/OR

### Negatives/Disadvantages

- Small groups limit participation and are pre-selected.
- It is time consuming, as each member must make a presentation.
- Suggestions may not be as creative as when a group throws ideas around.
- Good ideas can be voted out because its potential cannot be developed further.
- It minimises discussion, and thus does not allow the full development of ideas.
- Ideas/Inputs made by members may not converge and cannot lead to the same Solution (s).
- It is hard to implement it effectively with large groups unless very carefully planned beforehand.
- Requires extended advance preparation, which means that it cannot be a spontaneous technique.

## 2 CREATIVE THINKING

### 2.1 Meaning of creative thinking

- Creative thinking is the ability to think of original and innovative ideas.
- It focuses on exploring ideas/generating possibilities and looking for many answers.

### 2.2 Advantages/Benefits of creative thinking in the workplace

- Better/Unique/Unconventional ideas/solutions are generated.
- Complex business problems may be solved.
- Improves motivation amongst staff members.
- Management/employees may keep up with fast changing technology.
- Creativity may lead to new inventions which improves the general standard of living.
- May give the business a competitive advantage if unusual/unique solutions/ ideas/strategies are implemented.

- Productivity increases as management/employees may quickly generate multiple ideas which utilises time and money more effectively.
- Managers/Employees have more confidence as they can live up to their full potential.
- Managers will be better leaders as they will be able to handle/manage change(s) positively and creatively.
- Managers/Employees can develop a completely new outlook, which may be applied to any task(s) they may do.
- Leads to more positive attitudes as managers/employees feel that they have contributed towards problem solving.
- Managers/Employees have a feeling of great accomplishment and they will not resist/obstruct the process once they solved a problem/contributed towards the success of the business.
- Stimulates initiative from employees/managers, as they are continuously pushed out of their comfort zone.

### **2.3 Ways in which a business can create an environment that stimulates/promote creative thinking**

- Encourage alternative ways of working/doing things.
- Encourage staff to come up with new ideas/opinions/solutions.
- Respond enthusiastically to all ideas and never let anyone feel less important.
- Place suggestion boxes around the workplace and keep communication channels open for new ideas
- Emphasise the importance of creative thinking to ensure that all staff know that management want to hear their ideas.
- Make time for brainstorming sessions to generate new ideas, e.g. regular workshops/ generate more ideas/build on one another's ideas.
- Train staff in innovative techniques/creative problem solving skills/mind-mapping/ lateral thinking.
- Encourage job swaps within the organisation/studying how other businesses are doing things.

