

## **BUSINESS STUDIES**

### **LEGISLATION**

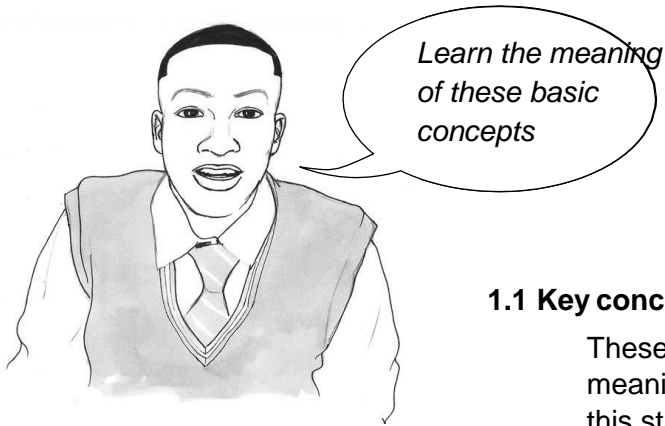
**This chapter covers the following Acts:**

### **INTRODUCTION**

The government has introduced various Acts in response to demands for redress and equity, on small and large businesses. This chapter covers the following Acts:

- Skills Development act, 1998 (Act 97 of 1998)
- Labour Relation Act, 1995 (Act 66 of 1995)
- Employment Equity Act, 1998 (Act 55 of 1998)
- Basic conditions of Employment Act, (Act 75 of 1997)
- Compensation for Occupational Injuries and Diseases Amendment Act, 1997 (Act 61 of 1997)
- Broad-Based Black Economic Empowerment Act, Act 2003, (Act 53 of 2003), (amended in 2013)
- National Credit Act, 2005 (Act 34 of 2005) (NCA)
- Consumer Protection Act, 2008 (Act 68 of 28 April 2008) (CPA)

TOPIC	CONTENT	CONTENT DETAILS FOR TEACHING, LEARNING AND ASSESSMENT PURPOSES
<p><b>1. Impact of recent legislation on businesses</b></p>	<p><b>8 Acts according to:</b></p> <ul style="list-style-type: none"> <li>• Nature</li> <li>• Aims/Purpose</li> <li>• Impact on business</li> <li>• Compliance</li> <li>• Penalties/consequences for non-compliance.</li> <li>• Actions regarded as discriminatory</li> <li>• Implications of BBBEE Pillars</li> <li>• NCA &amp; CPA consumer rights</li> </ul>	<ul style="list-style-type: none"> <li>• Explain/Outline the purpose of each Act</li> <li>• Explain the National Skills Development Strategy and the Human Resource Development Strategy (i.e. Sector Education and Training Authorities).</li> <li>• Outline/Explain the role of SETA's</li> <li>• Explain how SETA's are funded.</li> <li>• Discuss the impact of each Act on businesses.</li> <li>• Outline the BBBEE pillars</li> <li>• Explain the implications of BBBEE pillars on businesses.</li> <li>• Explain penalties/consequences for non-compliance with the Acts.</li> <li>• Outline/Explain actions regarded as discriminatory by the various Acts.</li> <li>• Suggest/Recommend ways in which businesses can comply with the Acts.</li> <li>• Outline/Discuss consumer rights in terms of the NCA and CPA.</li> </ul>



### 1.1 Key concepts

These definitions will help you understand the meaning of key Legislation concepts that are used in this study chapter.

Term	Definition
The Skills Development Act/SDA	The main aim of this Act is to improve the skills 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.
PDI's	Previously Disadvantaged Individuals or designated group.
SETA's	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 disadvantages 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 regulation of the South African credit industry. This means that all businesses that offer goods 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 informed choices.
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 especially in a bad way from the way in which you treat other people.

## 1.2 The purpose of the Acts

Study this section well



Ensure that you understand the purpose of each Act before you study the impact of the Acts on businesses



### PURPOSE OF THE ACTS

Skills Development Act	Labour Relations Act	Employment Equity Act	Basic Conditions of Employment Act
<ul style="list-style-type: none"> <li>• Develops the skills of people in South Africa in order to improve productivity.</li> <li>• Invests in education and training of workers.</li> <li>• Improves the chances of getting a job for previously disadvantaged people</li> <li>• Encourages workers to participate in learning programmes.</li> <li>• Redresses imbalances of the past through education and training</li> </ul>	<ul style="list-style-type: none"> <li>• Provides a framework/structure for labour relations between employers and employees.</li> <li>• Promotes collective bargaining at the workplace.</li> <li>• Establishes Labour Courts and Labour Appeal Courts</li> <li>• Promotes simple procedures for the registration of trade unions and employer organisations.</li> <li>• Provides for the right to lock-out by the employer as a reaction to lengthy strikes.</li> </ul>	<ul style="list-style-type: none"> <li>• This Act states that employees who do the same work (work of equal value) must be paid equally (equal pay).</li> <li>• No discrimination on grounds of gender in the workplace.</li> <li>• Promotes equal opportunity and fair treatment in the workplace.</li> <li>• Provides for employees to refer unresolved disputes to the CCMA.</li> <li>• Protects employees from victimisation if they exercise the rights given to them by the EEA.</li> </ul>	<ul style="list-style-type: none"> <li>• Provides clear terms and conditions of employment for employers and employees.</li> <li>• Set minimum requirements/standards for the employment contract.</li> <li>• Regulates the right to fair labour practices as set out in the Constitution.</li> <li>• Adheres to the rules and regulations set out by the International Labour Organisation.</li> <li>• Regulates the variations of basic conditions of employment.</li> <li>• Advance economic development and social justice.</li> </ul>

## PURPOSE OF THE ACTS

Compensation for Occupational Injuries & Diseases Act	Broad Based Black Economic Empowerment Act.	National Credit Act	Consumer Protection Act.
<ul style="list-style-type: none"> <li>• Provides a comprehensive protection to employees who injured in the course of performing their duties.</li> <li>• Makes provision for the establishment of a compensation Board.</li> </ul>	<ul style="list-style-type: none"> <li>• Enable wealth to be spread more broadly across all population groups.</li> <li>• Outline areas that would give the government a platform for bringing equitable spread of wealth.</li> <li>• Allows for the development of Codes of Good Practice.</li> <li>• It aims at targeting inequality in the South African economy.</li> </ul>	<ul style="list-style-type: none"> <li>• Promotes the social and financial interest of consumers.</li> <li>• Promote a fair but competitive credit market.</li> <li>• Ensure that consumers know what is included in their credit contracts.</li> <li>• Prevent discrimination and ensure credit is available to all consumers.</li> <li>• Makes provision for the establishment of the NCR.</li> <li>• Ensure registrations of credit bureaux and debt counselling services.</li> </ul>	<ul style="list-style-type: none"> <li>• Promote and protect the economic interests of consumers by providing access to information.</li> <li>• Provides consumer education on social and economic effects of consumer choice.</li> <li>• Establishes national standards to protect consumers.</li> <li>• Provides guidelines for better consumer information.</li> <li>• Promote responsible consumer behaviour.</li> <li>• Establish a National Consumer Commission (NCC)</li> </ul>



## Activity 1

- 1.1 Identify the Act implemented by Dinaledi LTD in each statement below:
- 1.1.1 People from different race were given the opportunity to apply for a vacant post.
  - 1.1.2 Customers were educated about the company's products.
  - 1.1.3 New employees were given the opportunity to attend in-service training courses.
  - 1.1.4 Themba was advised to claim for injuries sustained while performing his duties.
  - 1.1.5 The company is registered with the National Credit Regulator. (10)

### ANSWERS TO ACTIVITY 1.1

- 1.1 Employment Equity Act/EEA✓✓
- 1.2 Consumer Protection Act /CPA✓✓
- 1.3 Skills Development Act/SDA✓✓
- 1.4 Compensation for Injuries and Diseases Act/COIDA✓✓
- 1.5 National Credit Act/NCA✓✓

(10)

- 1.2 Explain the differences between NCA and CPA (8)

### ANSWERS TO ACTIVITY 1.2

NCA	CPA
-Protects consumer✓ from unfair credit granting✓	-Protects the economic interest✓ of consumers by improving access to information. ✓
-Applicable to businesses that offer✓ on good/services on credit✓	-Applicable to all businesses✓ that sell goods and services. ✓
-Consumers may complain✓ to the National consumer Tribunal. ✓	Consumers may complain ✓to an industry ombudsman/National Consumer Forum /Consumer Court. ✓

Max (8)



Impact means advantages AND/OR disadvantages

### 1.3 Impact of the Acts on businesses

Skills Development Act	Labour Relations Act	Employment Equity Act	Basic Conditions of Employment Act
<p><b>Advantages</b></p> <ul style="list-style-type: none"> <li>• Increases the number of skilled employees in areas where these skills are scarce.</li> <li>• Improves productivity in the workplace.</li> <li>• Increases global competitiveness</li> <li>• Increases investment in education and training in the labour market</li> <li>• Encourages on-going skills development and learning</li> </ul> <p><b>Disadvantages</b></p> <ul style="list-style-type: none"> <li>• Increases cost as the process requires a large amount of paper work.</li> <li>• Implementation of the SDA can be difficult to monitor and control</li> <li>• Skills programmes may not always address training needs of employees</li> </ul>	<p><b>Advantages</b></p> <ul style="list-style-type: none"> <li>• Protects the rights of businesses in labour related issues</li> <li>• Labour disputes are settled quicker are less expensive.</li> <li>• Prevents unfair discrimination in the workplace as it promotes equal opportunities for all employees.</li> <li>• Protect employers who embark on lawful lockouts when negotiations between parties fail.√</li> </ul> <p><b>Disadvantages</b></p> <ul style="list-style-type: none"> <li>• Productivity may decrease if employees are allowed to participate in the activities of trade unions during work time.</li> <li>• Costs of labour increases because of legal strikes</li> <li>• Reduced global competitiveness due to lower productivity</li> </ul>	<p><b>Advantages</b></p> <ul style="list-style-type: none"> <li>• Promotes equal opportunity and fair treatment in the workplace</li> <li>• Ensures the implementation of affirmative action measures to redress the imbalances in employment.</li> <li>• Encourages diversity in business by employing people from various racial backgrounds.</li> <li>• Encourages consultation between employer and employees.</li> <li>• Prevents unfair discrimination against employees.</li> </ul> <p><b>Disadvantages</b></p> <ul style="list-style-type: none"> <li>• Increased administration burden, as businesses must compile/submit employment equity reports every two years.</li> <li>• Expensive to train/employ someone who knows little about the Act.</li> <li>• Fines/Penalties for non-compliant businesses may be expensive for the business.</li> </ul>	<p><b>Advantages</b></p> <ul style="list-style-type: none"> <li>• Creates a framework of acceptable employment practices e.g., work hours, leave, etc.</li> <li>• Promotes fair treatment of employees in business.</li> <li>• Encourages consultation between employers and employees.</li> <li>• Outlines minimum requirements that forms the basis of employment contracts.</li> <li>• Work hours are specified so that the employer cannot exploit employees.</li> </ul> <p><b>Disadvantages</b></p> <ul style="list-style-type: none"> <li>• Developing/Drafting a formal/legal employment contract may be time-consuming/costly.</li> <li>• Businesses may regard employment contracts negative and may not implement it, which result in non-compliance/penalties.</li> <li>• No employer may force an employee to work more than 45 hours in a week. This may result in low productivity.</li> </ul>



## Impact of the Acts on businesses

Compensation for Occupational Injuries & Diseases Act	Broad Based Black Economic Empowerment Act.	National Credit Act	Consumer Protection Act.
<p><b>Advantages</b></p> <ul style="list-style-type: none"> <li>• Promotes safety in the workplace.</li> <li>• Creates a framework for acceptable employment practices and safety regulations.</li> <li>• Supply administrative guidelines/mechanisms for dealing with/processing claims.</li> <li>• Eliminates time and costs spent on lengthy civil court proceedings.</li> </ul> <p><b>Disadvantages</b></p> <ul style="list-style-type: none"> <li>• Claiming processes can be time consuming.</li> <li>• Procedures required by this Act may be costly as paperwork places an extra administrative burden on businesses.</li> <li>• Implementation processes/procedures required by the Act may be expensive.</li> </ul>	<p><b>Advantages</b></p> <ul style="list-style-type: none"> <li>• Encourages businesses to address the demands for redress/equity directly.</li> <li>• Provides a variety of business codes to improve employment equity.</li> <li>• A good BEE rating improves the image of the business.</li> <li>• Promotes enterprise development, by developing entrepreneurial skills of PDI's.</li> </ul> <p><b>Disadvantages</b></p> <ul style="list-style-type: none"> <li>• Businesses that want to do business with the government must have their BEE status assessed annually.</li> <li>• Processes may lead to corruption/nepotism if not monitored properly.</li> <li>• Investment/Ownership issues can cause unhappiness amongst existing shareholders/owners.</li> </ul>	<p><b>Advantages</b></p> <ul style="list-style-type: none"> <li>• The whole credit process is transparent e.g. both businesses and customers know their responsibilities.</li> <li>• Lower bad debts resulting in better cash flow.</li> <li>• Increases cash sales credit can only be granted to qualifying customers.</li> </ul> <p><b>Disadvantages</b></p> <ul style="list-style-type: none"> <li>• Businesses can no longer carry out credit marketing.</li> <li>• Loss of sales as many consumers may no longer qualify to buy on credit.</li> <li>• The paperwork and administrative processes required by the Act are costly.</li> </ul>	<p><b>Advantages</b></p> <ul style="list-style-type: none"> <li>• Businesses may build a good image if they ensure that they do not violate consumer rights.</li> <li>• May gain consumer loyalty, if they comply with CPA.</li> <li>• Businesses may be safeguarded from dishonest competitors.</li> <li>• Prevents larger businesses from undermining smaller ones.</li> </ul> <p><b>Disadvantages</b></p> <ul style="list-style-type: none"> <li>• Businesses have to replace/repair faulty items/refund money if the fault occurs within six months after purchase.</li> <li>• They have to disclose more information about their products and processes/services.</li> <li>• Confidential business information may become available to competitors.</li> </ul>



## Activity 2

2.1 Study the picture below and answer the questions that follow:

### **BCEA (Variation of conditions of employment III)**

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#### Variation by collective agreements concluded outside bargaining council:

- Only conditions that BCEA specifically allows to be varied include:
    - Averaging of hours of work.
    - Family responsibility leave.
    - Deductions from employee's wages.
    - Shorter notice period for termination of employment.
    - Removal of labour inspector's ability to issue compliance order if collective agreement provides for arbitration.
    - Certain conditions of employment within limits set by BCEA, e.g. overtime, weekly rest periods, Sunday work and sick pay.
- 

- 2.1.1 Quote FIVE provision of the BCEA from the picture above. (5)
- 2.1.2 Explain the provision of the BCEA quoted in QUESTION 2.1.1 (10)

**ANSWERS TO ACTIVITY 2.1.1**

**Provisions of the BECA from the picture above**

- Hours of work ✓
- Family responsibility leave/sick pay ✓
- Notice for termination of employment ✓
- Overtime/Sunday work ✓
- Rest periods ✓

(5X1) (5)



- You will only be awarded a maximum of two marks for writing all types of leaves under the provisions of the BCEA.

## ANSWERS TO ACTIVITY 2.1.2

### Hours of work

- Workers may not work for more than√ 45 hours in any week.√
- Workers may work nine hours a day√ if they work five days or less per week√/eight hours a day√ if they work more than five days a week.√

### 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.√
- Male employees are entitled to a maximum of three/five day's paternity leave√ when his child is born.

### Sick leave

Workers are entitled to:

- Six weeks paid sick leave√ in a period of 36 months√/1 day paid sick leave√ for every 26 days worked during the first six months of employment.√
- A medical certificate may be required before paying an employee who is absent√ for more than two consecutive days/who is frequently absent.√

### Notice for 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.√

### Overtime/Sunday work

- 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.√

### Rest periods

- Workers must have a meal break of 60 minutes√ 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.

**Max (10)**

## 1.4 Ways in which businesses can comply with the Acts

Skills Development Act	Labour Relations Act	Employment Equity Act	Basic Conditions of Employment Act
<ul style="list-style-type: none"> <li>• Employers who collect PAYE should register with SETAs.</li> <li>• One per cent of an employer's payroll has to be paid over to the SETA.</li> <li>• Businesses should register with SARS in the area in which their business is classified (in terms of the SETA).</li> <li>• Employers should submit a workplace skills plan and provide evidence that it was implemented.</li> </ul>	<ul style="list-style-type: none"> <li>• Businesses must allow employees to form trade unions/participate in union activities/legal strikes.</li> <li>• Allow/Support the establishment of workplace forums.</li> <li>• Employees should not be unfairly/illegally dismissed</li> <li>• Employers should not breach/ignore any collective agreement</li> <li>• Disclose all relevant information required by trade union representatives to do their jobs effectively.</li> </ul>	<ul style="list-style-type: none"> <li>• Businesses must guard against discriminatory appointments.</li> <li>• Promote equal opportunities and fair treatment</li> <li>• Reasonable accommodation of people from designated groups</li> <li>• Ensure that there is equal representation of all racial groups in every level of employment.</li> <li>• Submit the employment equity plan to the Department of Labour</li> <li>• Retain designated groups, including skills development</li> </ul>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• They must have a break of 60 minutes after five hours of work</li> <li>• Workers can take up to six weeks paid sick leave during a 36-month cycle</li> <li>• Businesses should not employ children under the age of 16.</li> <li>• Workers must receive double if they work during public holidays/Sunday</li> </ul>

## Ways in which businesses can comply with the Acts

Compensation for Occupational Injuries & Diseases Act	Broad Based Black Economic Empowerment Act.	National Credit Act	Consumer Protection Act.
<ul style="list-style-type: none"> <li>• Provide a healthy/safe working environment.</li> <li>• Register with the Compensation Commissioner and provide the particulars of the business.</li> <li>• Keep records of employees' income and details of work for four years.</li> <li>• Report all incidents causing death/injury/illness of employees.</li> <li>• Submit returns of earnings by no later than 1 March annually.</li> <li>• Levies must be paid to the Compensation Fund.</li> <li>• Ensure that the premises/equipment/machinery is in good working condition.</li> <li>• Allow regular assessment of the workplace by inspectors in order to determine the level of risk their employees are exposed to.</li> <li>• Employers may not make deductions for COIDA from employees' remuneration packages.</li> <li>• Businesses must ensure that claims are lodged within twelve months of the date of the accident.</li> </ul>	<ul style="list-style-type: none"> <li>• Businesses must appoint black people in managerial positions</li> <li>• Businesses must sell shares to black employees/people.</li> <li>• Send black people for black for skill development training.</li> <li>• Outsource their services to BEE compliant suppliers.</li> <li>• Implement affirmative action when making appointments.</li> <li>• Develop small business /SMME's through ESD.</li> <li>• Develop the standard of living of the communities in which they operate.</li> </ul>	<ul style="list-style-type: none"> <li>• Businesses should register with the National Credit Regulator.</li> <li>• Submit an annual compliance report to the National Credit Regulator.</li> <li>• Obtain credit records/checks of clients before granting loans.</li> <li>• Conduct credit affordability assessments to ensure that clients are able to meet their obligations on time.</li> <li>• Offer applicants pre-agreement statements.</li> <li>• Disclose all costs of a loan/No hidden costs should be charged/added.</li> </ul>	<ul style="list-style-type: none"> <li>• Disclose prices of all products on sale.</li> <li>• Ensure that goods/services offered are standardised/of the same quality.</li> <li>• Comply with the requirements regarding promotional competitions.</li> <li>• Display the name of the business on all business documents, e.g. invoices/contracts.</li> <li>• All agreements must provide for a five-day cooling off period.</li> <li>• Comply with requirements regarding the display of information on labels/packaging</li> <li>• Provide adequate training to staff on the CPA.</li> </ul>

## 1.5 Actions regarded as discriminatory by the Acts.

Skills Development Act	Labour Relations Act	Employment Equity Act	Basic Conditions of Employment Act
<ul style="list-style-type: none"> <li>• Preventing employees from signing for a learnership to their age or position in the workplace.</li> <li>• Unfair promotion of skills and development.</li> <li>• Providing employment services for gain without being registered as an employer.</li> </ul>	<ul style="list-style-type: none"> <li>• Unfair/Illegal dismissal of employees.</li> <li>• Cancellation of employees' contracts by a new employer when a business is sold</li> <li>• Refusing the formation of workplace forums.</li> <li>• Refusing to give workplace forum members time off with pay for attending meetings during working hours.</li> <li>• Forcing employees to give up trade union membership.</li> <li>• Preventing employees from joining trade unions.</li> <li>• Refusing leave to trade union representatives to attend trade union activities.</li> <li>• Breaching of collective agreements/resolution mechanisms by either employer/employee.</li> <li>• Not allowing employees to take part in legal strikes</li> </ul>	<ul style="list-style-type: none"> <li>• Not employing a young woman because she will want to have children.</li> <li>• Refusing to employ a person because he/she has strong religious beliefs/has a disability</li> <li>• Doing HIV testing unless justified by the Labour Court.</li> <li>• Denying people access to the workforce based on gender/race/culture/etc. and treating them unfairly.</li> </ul>	<ul style="list-style-type: none"> <li>• Preventing the trade union/representatives meeting with workers.</li> <li>• Firing workers who take part in a legal strike.</li> <li>• Forbidding workers to discuss wages/salaries with co-workers.</li> <li>• Preventing workers from having access to employment contracts.</li> </ul>

## Actions regarded as discriminatory by the Acts

Compensation for Occupational Injuries & Diseases Act	Broad Based Black Economic Empowerment Act.	National Credit Act	Consumer Protection Act.
<ul style="list-style-type: none"> <li>• Employers who bribe/prevent employees from reporting the accident/injury.</li> <li>• Providing false information about previous, serious accidents/occupational diseases.</li> <li>• Employers who do not contribute to the Compensation fund.</li> <li>• Employers who do not allow claims for injuries, discriminates against injured employees.</li> <li>• Employers that take too long to process claims/delay the claiming process.</li> <li>• Compensation that is set off against any debt of the person entitled to the compensation.</li> </ul>	<ul style="list-style-type: none"> <li>• Failing to implement affirmative action to meet BBBEE responsibilities.</li> <li>• Promoting unsuitable people into a management positions at the expense of qualified PDP's.</li> <li>• Refusing to award tenders to black suppliers who are BEE compliant.</li> </ul>	<ul style="list-style-type: none"> <li>• Refusing credit to customers based on gender/race.</li> <li>• Charging different interest rates to customers based on gender/race</li> <li>• Blacklisting customers without making efforts to recover the debt.</li> </ul>	<ul style="list-style-type: none"> <li>• Denying customers proper information about the product/services.</li> <li>• Varying the quality of goods when selling in different areas.</li> <li>• Prioritising any consumer group over another when marketing/selling</li> <li>• Charging unfair prices for the same goods and services.</li> <li>• Treating customers differently based on gender/age/race.</li> </ul>



## 1.6 Penalties for non-compliance



All businesses who do not comply with the above mentioned Acts will be subjected to the following penalties.

- Labour inspectors may serve a compliance order by writing to the Department of Labour
- The Director General may agree/change/cancel the compliance order.
- 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



### Activity 3

- 3.1 Read the scenario below and answer the questions that follow:

#### **HARWICH MANUFACTURES (HM)**

Harwich Manufactures specialises in the manufacturing of winter ladies clothes. The management of HM has employed fifty workers who are not allowed to join a trade union. Credit is granted to customers without checking their financial status.

- 3.1.1 Identify TWO Acts that are applicable from the scenario above. Quote from the scenario above to support your answer. (6)
- 3.1.2 Advise HM on how to comply with the Acts identified in QUESTION 3.1.1. (12)
- 3.1.3 Mention TWO penalties that HM can face for not complying with the Acts identified in QUESTION 3.1.1. (4)

### ANSWERS TO ACTIVITY 3

#### 3.1.1 Identification of Acts from the scenario

Labour Relations Act /LRA√√

(2)

#### Motivation

The management of HM has employed fifty workers who are not allowed to join a trade union. √

(1)

National Credit Act/NCA√√

(2)

#### Motivation

Credit is granted to customers without checking their financial status. √

(1)

**Max (6)**

#### 3.1.2 Ways to comply with the LRA and NCA.

##### Ways to comply with LRA.

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

Sub max

(6)

##### Ways to comply with NCA.

- HM should register with the National Credit Regulator.√√
- Submit an annual compliance report to the National Credit Regulator.√√
- Obtain credit records/checks of clients before granting loans.√√
- Conduct credit affordability assessments to ensure that clients are able to meet their obligations on time.√√
- Offer applicants pre-agreement statements.√√
- Disclose all costs of a loan/No hidden costs should be charged/added. √√

Sub max (6)

**Max (12)**

#### 3.1.3 Penalties for non-compliance

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

**Max (6)**

## 1.7 Role of SETA's

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

## Different SETA's



Develop and implement a sector skills plans to identify priorities for skills. (Scars and Critical Skills)

## 1.8 BBEE PILLARS

OLD PILLARS	REVISED PILLARS
Management	Management control
Employment Equity	
Skills development	Skills development
Ownership	Ownership
Preferential procurement/Supplier development	Enterprise and supplier development (ESD)
Enterprise development	
Social responsibility	Socio-economic development/social responsibility



- Only two pillars have been revised e.g. employment Equity and supplier development.
- Employment Equity is under management and control
- Supplier development and enterprise development they have been merged. They are now called Enterprise and supplier development (ESD).



## Activity 4

4.1 Explain how businesses should apply the following pillars of BBBEE:

4.1.1 Enterprise and supplier development

4.1.2 Management control

4.1.3 Skills development

4.1.4 Ownership

(16)

### ANSWERS TO ACTIVITY 4

4.1.1 Enterprise and supplier development

- Business must create jobs<sup>√</sup> as ESD promotes local manufacturing.<sup>√</sup>
- Businesses are encouraged to invest/support<sup>√</sup> black owned SMMEs.<sup>√</sup>
- Contribution can be monetary<sup>√</sup>, e.g. loans/investments/donations.<sup>√</sup>
- Contribution can be non-monetary<sup>√</sup>, e.g. consulting services/advice/ entrepreneurial programmes<sup>√</sup>, etc.
- Outsource services<sup>√</sup> to suppliers that are BBBEE compliant.<sup>√</sup>
- Identify black owned suppliers<sup>√</sup> that are able to supply goods and services.<sup>√</sup>
- Develop the business skills of small/black owned suppliers<sup>√</sup>, e.g. sales techniques, legal advice<sup>√</sup>, etc.
- Support the cash flow of small suppliers<sup>√</sup> by offering them preferential terms of payment.<sup>√</sup>

Sub max (4)

4.1.2 Management control

- Business must ensure that transformation<sup>√</sup> is implemented at all levels.<sup>√</sup>
- Appoint black people<sup>√</sup> in senior executive positions/to management.<sup>√</sup>
- Involve black people<sup>√</sup> in the decision making processes.<sup>√</sup>
- Ensure that black females<sup>√</sup> are represented in management.<sup>√</sup>
- Black people should be represented in positions<sup>√</sup> that are key to the functioning of companies<sup>√</sup>

Sub max (4)

4.1.3 Skills development

- Develop staff members<sup>√</sup> by conducting training session.<sup>√</sup>
- Offer learnerships/scholarships/internships<sup>√</sup> to unemployed citizens.<sup>√</sup>
- Make provision for the utilisation of unemployed black people<sup>√</sup> in training programmes.<sup>√</sup>
- Utilise the services of black people with disabilities<sup>√</sup> and provide them with training.<sup>√</sup>
- Set out a timetable for training<sup>√</sup> and measure progress on a monthly basis.<sup>√</sup>

Sub max (4)

4.1.4 Ownership]

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

Sub max (4)

**Max (16)**