



BUSINESS STUDIES

GRADE 12

TERM ONE

CHAPTER 1 (FINAL)

**NOTES ON THE IMPACT OF RECENT LEGISLATION ON
BUSINESSES**

2019

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IMPACT OF RECENT LEGISLATION ON BUSINESSES**CONTENT DETAILS FOR TEACHING, LEARNING AND ASSESSMENT PURPOSES**

- Explain/Outline the purpose of each Act
- Outline/Discuss/Recommend the rights of the LRA on employers and employees/rights of consumer rights according to the NCA and CPA.
- Explain the National Skills Development Strategy and the Human Resource Development Strategy (i.e. Sector Education and Training Authorities).
- Outline/Explain the role of SETA's
- Explain how SETA's are funded.
- Discuss the impact of each Act on businesses.
- Outline the BBBEE pillars
- Explain the implications of BBBEE pillars on businesses.
- Explain penalties/consequences for non-compliance with the Acts.
- Outline/Explain actions regarded as discriminatory by the various Acts.
- Suggest/Recommend ways in which businesses can comply with the Acts.

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.
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 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 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, 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.
- Improves the chances of getting a job for previously disadvantaged people.

Impact of the SDA on business

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.
- 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.

- Workplace discrimination can be addressed through training.
- Workplace is used as an active learning environment where employees can gain practical job experience
- BBEE-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 that 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.

Discriminatory actions according to 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.
- Businesses should register with the relevant SETAs.

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 paid by employers e.g. 80% is distributed to the different SETA and 20% is paid into the National Skills Fund.
- Donations and grants from the public
- Surplus funds from government institutions
- Funds received from rendering their services.

National Skills Development Strategy and the Human Resource Development Strategy

National Skills Development Strategy	Human Resources Development Strategy
- Encourages good quality training in the workplace to ensure on-going development of skills.	- Addresses skills shortages in the South African workforce.
- Provides for the participation of government, organised business and labour.	- Aims at achieving faster economic growth/higher employment levels and reduced levels of poverty.
- Improves social development through economic development.	- Promotes social development/social justice and helps to alleviate poverty.
- Indicates how Sector Education and Training Authorities (SETAs) should use the money allocated from the Skills Development Levy.	- Develops short term and long term workforce skills.
- Increases/Improves access to training programmes.	- Improves the supply of skills.
- Builds/Provides career/vocational guidance/training centres.	- Increases employee participation in lifelong learning.

2 LABOUR RELATIONS ACT/LRA

Purpose of the Labour Relations

- Provides a framework/structure for labour relations between employers and employees.
- Promotes collective bargaining at the workplace.
- Promotes workplace forums to accommodate employees in decision making.
- Establishes Labour Courts and Labour Appeal Courts.
- Promotes simple procedures for the registration of trade unions and employer organisations.
- Provides for the right to lock-out by the employer as a reaction to lengthy strikes.
- Promotes fair labour practice between the 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.
- Establishes the Commission for Conciliation, Mediation and Arbitration (CCMA) for dispute resolutions.

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.
- 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.
- Workplace forums can add value to businesses if it functions properly.

AND/OR

Negatives/Disadvantages

- 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
- Reduced global competitiveness due to lower productivity
- 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.
- Some businesses may feel that the LRA gives employees too much power as it creates lengthy procedures, e.g. consulting with workplace forums.

- Employers may not get a court interdict to stop a strike.
- 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.
- Many employees and employers do not understand/respect the Labour Relations Act.
- Labour disputes and bargaining council processes become disruptive/ time consuming and can lead to a decrease in productivity in businesses.
- Many employees take advantage of the right to strike without acknowledging their responsibilities.

Discriminatory actions according to the LRA

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

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

- Businesses must allow employees to form trade unions/participate in union activities/legal strikes.
- Allow/Support the establishment of workplace forums.
- Employees should not be unfairly/illegally dismissed
- Employers should not breach/ignore any collective agreement
- 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

- Employers have the right to lockout employees who engage in unprotected/illegal strike/labour action.
- Form employer organisations.
- Form a bargaining council for collective bargaining purposes.

- 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.
- 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.
- 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.

3 EMPLOYMENT EQUITY ACT /EEA

Purpose of the EEA

- This Act states that employees who do the same work (work of equal value) must be paid equally (equal pay).
- No discrimination on grounds of gender in the workplace.
- Promotes equal opportunity and fair treatment in the workplace.
- Provides for employees to refer unresolved disputes to the CCMA.
- Protects employees from victimisation if they exercise the rights given to them by the EEA.

Impact of the EEA on business

Positives/Advantages

- Promotes equal opportunity and fair treatment in the workplace
- Promotes the implementation of affirmative action measures to redress the imbalances in employment.
- Provides all employees with an equal opportunity to be selected/appointed/ promoted in a position.
- Provides employees with legal recourse if they believe they have been unfairly discriminated against.
- Motivates employees because the workforce is more diverse/representative/inclusive
- Encourages diversity in business by employing people from various racial backgrounds.
- Encourages consultation between employer and employees.
- Prevents unfair discrimination as it ensures that the workforce represents the demographics of the country.
- 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

- Increased administration burden, as businesses must compile/submit employment equity reports every two years.
- Expensive to train/employ someone who knows little about the Act.

- Fines/Penalties for non-compliant businesses may be expensive for the business.
- 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
- Often positions go unfilled because there are no suitable EE candidates

Penalties for non-compliance with the EEA

- Businesses may be taken to the Labour Court for prosecution.
- Fines may be imposed on businesses that fail to comply with its reporting obligations.
- The Department of Labour may block non-compliant companies from doing business with the government.

Discriminatory actions according to 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
- Reasonable accommodation of people from designated groups
- Ensure that there is equal representation of all racial groups in every level of employment.
- 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.
- Ensure that diversity/inclusivity in the workplace is achieved.
- Implement affirmative action measures to redress disadvantages experienced by designated groups.
- Prepare an employment equity plan in consultation with employees.
- Implement an employment equity plan.
- 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.

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.
- Regulates the right to fair labour practices as set out in the Constitution.
- Adheres to the rules and regulations set out by the International Labour Organisation.
- Regulates the variations of basic conditions of employment.
- Advance economic development and social justice.

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. (Relationship with LRA)
- 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 to 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.

Discriminatory actions according to 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
- 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.

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.
- They must have a break of 60 minutes after five hours of work
- Workers can take up to six weeks paid sick leave during a 36-month cycle
- Businesses should not employ children under the age of 16.
- Workers must receive double if they work during public holidays/Sunday

Provisions of the BCEA

Hours of work/Work hours

- 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.
- 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/One day for every 17 days worked✓/One hour for every 17 hours worked.
- An employer can only pay a worker in lieu of leave if that worker leaves the job.

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.

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

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.

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.
- Creates a framework for acceptable employment practices and safety regulations.
- Supply administrative guidelines/mechanisms for dealing with/processing claims.
- Eliminates time and costs spent on lengthy civil court proceedings.
- Employers are protected from financial burden should an accident occur in the workplace provided that the employer was not negligent
- Claiming processes are relatively simple.
- 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.
- Employees do not contribute towards this fund.
- 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.
- Any compensation to an employee/the family is exempt from income tax.
- 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.
- Procedures required by this Act may be costly as paperwork places an extra administrative burden on businesses.
- Implementation processes/procedures required by the Act may be expensive.
- Employers have to register all their workers/make annual contributions to COIDA, which may result in cash flow problems.
- Employers may be forced to pay heavy penalties if they are found guilty of negligence/not enforcing safety measures.
- Workers who are temporarily/permanently employed in foreign countries are not covered.
- Domestic/Military workers are not covered.

Discriminatory actions according to 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.
- Register with the Compensation Commissioner and provide the particulars of the business.
- Keep records of employees' income and details of work for four years.
- Report all incidents causing death/injury/illness of employees.
- Submit returns of earnings by no later than 1 March annually.
- Levies must be paid to the Compensation Fund.
- Ensure that the premises/equipment/machinery is in good working condition.
- 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.

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.
- A good BEE rating improves the image of the business.
- Promotes enterprise development, by developing entrepreneurial skills of PDI's.
- 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.
- Encourages businesses to address the demands for redress/ equity directly.
- Provides for human resources development through training and development.
- Promotes enterprise development, by developing entrepreneurial skills of designated people to start their own businesses.
- 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.
- Fronting is discouraged, as it may lead to the disqualification of a business's entire scorecard/BBBEE status.
- 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 that want to do business with the government must have their BEE status assessed annually.
- Processes may lead to corruption/nepotism if not monitored properly.
- Investment/Ownership issues can cause unhappiness amongst existing shareholders/owners.
- Businesses have to go through the process of having their BBBEE compliance measured/verified by an independent BEE verification agency.
- Provides for preferential procurement, so certain businesses may be excluded from supplying goods/services.

- Many businesses have been disadvantaged due to BBBEE ratings as they may not be able to meet all the scoring.
- Processes and procedures may be costly for a business as there are many legal requirements for scoring enough points to be compliant.
- Businesses could experience large financial implications/penalties if they do not comply with BBBEE.
- Businesses will have to spend money in areas covered by the seven/five BBBEE pillars to obtain a good BBBEE rating.
- Investment/Ownership issues can cause unhappiness between existing shareholders.

Discriminatory actions according to 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.
- 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
- Government will cancel any contract awarded that was based on false information regarding B-BBEE status.
- 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
- Businesses must sell shares to black employees/people.
- Send black people for black for skill development training.
- Outsource their services to BEE compliant suppliers.
- 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.

BBBEE 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

Implications of BBBEE pillars on businesses**Old pillars (7)****Management**

- Appoint black people in senior executive positions/management.
- Ensure black female representation in management.
- Implement transformation at all levels of management.
- Ensure that black people are involved in decision making processes.

Employment Equity

- Business should employ suitable and qualified employees regardless of gender/race/culture/etc.
- Workplace should represent the demographics of the country.
- Voluntary employment equity targets are set and then monitored by the government.
- Creates a brain drain e.g. qualified expertise emigrate to other countries where there will be no discrimination.
- Businesses must have Employment Equity Plan in place
- May lead to conflict between management and employees/colleagues.

Skills development

- 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.

Ownership

- Business should include black people in shareholding/partnerships/franchises.
- 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.
- Encourage small black investors to invest in big companies and share ownership.
- 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.

Supplier development/Preferential procurement

- Identify black owned suppliers that are able to supply goods and services.
- Develop 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.
- Develop and implement a supplier development plan/supply chain.
- 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.

Enterprise development

- Businesses should invest in/support black owned SMME's.
- Contributions may be monetary/non-monetary.
- Monetary contributions could include offering SMME's interest-free loans/ investments/donations, etc.
- Non-monetary contributions could include consulting services/advice/ entrepreneurial programmes/scarce competencies/skills/expertise, etc.
- Encourage SMME's to use their own business initiatives and make it sustainable.

Social responsibility/Socio-economic development

- Businesses should CSI 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.

OR

New pillars (5)

Management control

- 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.

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- More opportunities are created for black people to become owners/ entrepreneurs.

- Encourage small black investors to invest in big companies and share ownership.
- 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.

Enterprise and supplier development (ESD)

- Business must create jobs as ESD promotes local manufacturing.
- Businesses are encouraged to invest/support black owned SMMEs.
- Contribution can be monetary, e.g. loans/investments/donations.
- Contribution can be non-monetary, e.g. consulting services/advice/entrepreneurial programmes, etc.
- Outsource services to suppliers that are BBBEE compliant.
- Identify black owned suppliers that are able to supply goods and services.
- 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.
- 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.

Social responsibility/Socio-economic development

- Businesses should CSI 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.

7 National Credit Act

Purpose of the NCA

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

Impact of the NCA on businesses**Positives/Advantages**

- The whole credit process is transparent e.g. both businesses and customers know their responsibilities
- Authorised credit providers may attract more customers.
- Lower bad debts resulting in better cash flow.
- Increases cash sales as credit can only be granted to qualifying customers
- Protects businesses against non-paying consumers.
- Stamps out reckless lending and prevents businesses from bankruptcy.
- Businesses do thorough credit checks and receive up-to-date documentation from the consumer as proof that they can afford the repayment.
- Leads to more customers through credit sales as they are now protected from abuse.
- 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.
- 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.
- Debt collection procedures are more complex and expensive.
- Credit providers cannot collect from consumers who are under debt reviews.
- Increases the administration burden on credit providers.
- More working capital is needed as businesses cannot sell many goods on credit due to stricter credit application processes.
- Fewer customers buy on credit as it is more difficult to obtain credit.
- Businesses struggle to get credit such as bank loans/overdrafts.
- Businesses that do not comply with the NCA may face legal action.

Discriminatory actions according to 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 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 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 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

- Credit providers must be registered with the National Credit Regulator.
- Businesses must 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 a credit check with a registered credit bureau and could also consult the National Credit Register.
- 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.
- Disclose all costs of loan/No hidden costs should be charged/added.

Consumer rights in term of the NCA

Consumers have a right to:

- Apply for credit and to be free from discrimination.
- Obtain reasons for credit being refused
- Receive pre-agreement documentation before concluding any credit transaction.
- Fair and responsible marketing.
- Choose which goods they will buy and return such goods if they are not satisfied.
- Receive Information in plain and understandable language.
- Receive documents as required by the Act.
- Access and challenge credit records and information.

8 Consumer Protection Act

Purpose of the Consumer Protection Act

- Promote and protect the economic interests of consumers by providing access to information.
- Promotes fair/accessible and sustainable places for people to sell their products
- Establishes national standards to protect consumers
- Provides guidelines for better consumer information and to prohibit unfair business practices
- Promotes responsible consumer behaviour
- Promotes consistent laws relating to consumer transaction and agreement
- Establishes a National Consumer Commission (NCC)
- Ensures that consumers have access to information they need to make informed choices
- Promotes the rights and full participation of historically disadvantaged individuals as consumers
- Ensures that consumers are not misled/deceived by suppliers of goods/services

- Promotes consumer safety by protecting them from hazardous products/services
- Strengthens a culture of consumer rights and responsibilities.
- Empowers consumers to take legal action if their rights are not upheld
- Protects consumers against contracts that include unfair terms which limit the liability of suppliers
- Protects consumers against unscrupulous 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

- 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.
- May gain consumer loyalty, if they comply with CPA.
- Businesses may be safeguarded from dishonest competitors.
- Businesses may be protected if they are regarded as consumers
- Prevents larger businesses from undermining smaller ones.

AND/OR

Negatives/Disadvantages

- Confidential business information may become available to competitors
- They have to disclose more information about their products and processes/services
- Businesses may feel unnecessarily burdened by legal processes
- Penalties for non-compliance may be very high
- 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.

Discriminatory actions according to the CPA

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

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.
- Ensure that goods/services offered are standardised/of the same quality.
- Comply with the requirements regarding promotional competitions.
- Display the name of the business on all business documents, e.g. invoices/contracts.
- All agreements must provide for a five-day cooling off period.
- Comply with requirements regarding the display of information on labels/ packaging
- Provide adequate training to staff on the CPA.
- 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.
- reject goods that are unsafe/defective for a full refund.
- 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.
- 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.
- Businesses should label products and trade descriptions correctly.

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-by 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.
- Quality of goods may not vary when supplied to different consumers.
- Businesses may not charge different prices for the same goods/services.
- No discrimination should occur when businesses market products and services in different areas/places.

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

- 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

Right to fair/honest dealings

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

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- Consumers may demand quality services/goods.
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