

LOCAL AND NATIONAL COMMUNITIES

7 FEBRUARY 2013

Lesson Description

In this lesson, we will:

- Analyze the impact of recent legislation developed in response to demands for redress and equity on small and big business operations.
- Critically reflect on a business venture, assess its entrepreneurial qualities, and identify its success factors and areas for improvement.
- Examine exam and general questions.

Key Concepts

(Follow p. 29, MACMILLAN Business Studies for All Gr. 12)

Affirmative Action:

The process to ensure that people from designated groups have equal opportunities in the workplace. It is also known as Employment Equity.

Legislation:

Legislation means laws, promulgated as Acts, and published in the Government Gazette.

Employment Equity Act:

The Employment Equity Act, Act No. 55 recognises that the disparities created by the discriminatory laws and practices of the past will be corrected in the workplace. Another term for employment equity is Affirmative Action.

Skills Development Act:

The Skills Development Act No. 97 of 1998 provides an institutional framework to devise and implement national, sector and workplace strategies to develop and improve the skills of the South African workforce.

SETA:

This stands for Sector Education and Training Authority. They are key to the implementation of the Skills Development Act.

Key Points

Employment Equity Act, 55 of 1998

Purpose

- To get rid of unfair discrimination according to race, gender and disability.
- To promote equal opportunities and fair treatment for all employees.
- To implementing affirmative action measures by giving preference to
- Previously Disadvantaged Individuals when appointing new candidates.
- To ensuring equal representation by appointing candidates of all races.
- To ensure that business enterprises that employ more than 50 employees, comply with the principles of affirmative action.
- To ensure that a business which employs more than 50 workers and has a turnover of R10 million, submits an equity plan to the Department of Labour once every two years.
- To allow businesses that comply with employment equity requirements to transact with government – this serves as motivation for small businesses to be EE compliant (even if it is not enforceable by law for small business enterprises).
- To make it compulsory for large business enterprises to comply with employment equity principles.

Advantages of this Act

- Prevents employers of discriminating against race, gender, disability and sexual preference when persons for vacant posts are considered.
- Brings redress to people who have experienced suffering and inequality in the past.
- Promotes equal opportunities for all people in the workplace.
- Provides all candidates with an equal opportunity of being selected.
- Provides all candidates with an equal opportunity to be considered for promotion.

Problems resulting from this Act

- The Act remedies one set of discrimination with another set of discrimination.
- The people, who are currently benefiting from the Act, are often not the same people who were discriminated against in the past (because they are too young).
- Qualified, skilled and experienced workers are retrenched to make space for not qualified persons.
- Capable persons emigrate to get better opportunities abroad causing the economy to suffer.

Black Economic Empowerment Act, 53 of 2003

Difference between BBBEE and BEE

BBBEE = Broad Based Black Economic Empowerment - Refers to the 7 pillars of empowerment

BEE = Black Economic Empowerment - Refers to inclusion of black people in a business

Purpose

- The **purpose** is to act as a mechanism of transformation for all business in South Africa.
- BBBEE **aims** to distribute wealth amongst all South Africans by encouraging businesses to employ black South Africans.
- Ownership and senior management positions.
- BBBEE is the economic empowerment of all black people including women, workers, youth, people with disabilities, and people living in rural areas.

Companies are ranked according to a total score achieved on the seven pillars of BBBEE:

	PILLARS	
1	Ownership	- Selling of shares to black employees to share in the profit of the company. - Outsourcing of certain business functions to black employees.
2	Management	- The number of people from different race groups included in the management team, specific in executive positions.
3	Employment Equity	- Equal employment opportunities to previous advantage people. Principles of affirmative action.
4	Skill development	- Points are awarded for the number of employees undergoing skill development.
5	Procurements	- Businesses will score points if they support suppliers with a diversity in their ownership.
6	Business development	- Businesses score points according to their support to other BBBEE / BEE businesses.
7	Social responsibility	- Businesses will be assessed on their annually social investments projects amongst the PDIs'.

- Businesses are evaluated against their contribution to BBBEE.
- Businesses who want to deliver goods or services to the local, provincial or national authority are assessed on a scale (scorecard of compliance) before the contract will be given to the business.
- Verification of BBBEE applied by businesses will be done by agencies accredited by the Department Of Commerce and Industry.
- Businesses that do not adhere to BBBEE requirements can be fined.

The National Credit Act

Purpose of the NCA

- This Act provides for all types of credit agreements according to goods and services rendered where a levy is applicable because payment will be in the future.
- It **promotes** the development of a credit market that is accessible to all South Africans.
- It **promotes** equity in the credit market by balancing the rights and responsibilities of credit providers and consumers.
- The Act **addresses** and corrects imbalances in negotiating power between consumers and credit providers.
- It **encourages** responsible borrowing, avoidance of over-indebtedness and fulfillment of financial obligations by consumers.
- Reckless credit granting by credit providers and contractual default by consumers is discouraged.
- Consumers are protected against careless gaining of credit, unfair interest rates in comparison with the prime rate and place greater responsibilities on credit suppliers.
- It replaces the previous legislation on credit supplying.

Implications for businesses

- A credit provider must provide a consumer with a quotation, showing all the relevant costs and repayment values before the credit agreement is signed.
- Before granting credit, a credit provider must assess the consumer's creditworthiness and ability to repay the credit.
- This strict credit control results in a reduction of available credit.
- The business will have a lower turnover
- It is, therefore, not only more difficult for enterprises to sell their products, but it is also more difficult for consumers to buy products.

Advantages

- Prevent consumers from getting credit too easily because too much credit may lead to bankruptcy.
- Prevent credit suppliers to take back the goods bought on credit if consumer cannot pay.
- More responsible credit supplying and gaining of credit.
- Debtors may pay the outstanding balance, including interest and other levies, without three months notice as required previously.
- Credit suppliers must not pester consumers to agree to a credit agreement by telephone or visits at home.
- Interest rates must be clearly stipulated in advertisements for credit, before the agreement, in a format as prescribed by the National Credit Regulator.
- Credit suppliers must ensure that the debtor will be able to repay the debt before the agreement.
- The total amount of bad debt in the country will decrease.
- Debtors cannot be placed on a black-list for bad payers, before the credit suppliers have referred the debtor to a credit councillor.

Disadvantages

- Restricts access to credit at a time of an economic slowdown.
- Many business enterprises are struggling to survive, because they depend on customers who have access to credit, especially in the motor and real estate industries.
- The standard of living of consumers is lowered as it becomes more difficult to obtain credit.
- Because of the credit policy more pressure is on the credit supplier.

Consumer rights

- They have the right to know the reasons if credit is not granted.
- They have the right to access and challenge credit records and information.
- They have the right not to be discriminated against unfairly.

- They have the right to information in an official language.
- They have the right to information in plain and understandable language.
- Information on credit granting must be in writing and in an official language of the choice of the consumer.
- Credit granting information must be free of charge.
- Credit suppliers must provide a quotation, valued for 5 days, before the agreement.
- Credit suppliers must ensure that the consumer understands the nature of the credit agreement and that the consumer will be able to repay the debt.
- Consumers are entitled to receive a monthly statement from the credit supplier including the following: outstanding balance, amount paid already, amount in arrear, and amount to be paid in the following month.
- Consumers handed over to a credit bureau, have the right to check annually on their records with the bureau, without paying for the information.
- Debtors have the right to apply for a debt councillor to reconstruct their debts if they struggle to repay their debts.
- All costs must be clearly stipulated.

Other Legislation:

- The Skills Development Act
- The National Skills development Strategy

Questions

Question 1

(Business Studies Feb/March 2012 Final Exam, Question 8)

The Labour Relations Act, 1995 (Act 66 of 1995) and the Basic Conditions of Employment Act, 1997 (Act 75 of 1997) were put in place to ensure a better South Africa for all the people in the country.

Discuss the nature and purpose of each Act and explain how it is implemented. Also evaluate the impact of these Acts on both employers and employees.

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Question 2

Activity 3 (P.36 MACMILLAN Business Studies for All)

Paper mill face strikes

A leading paper and packaging company faces strikes at their local paper mills after talks with the Chemical, Energy, Paper, Printing, Wood and Allied Workers' Union failed yesterday. According to a Union official, the Union has declared a dispute after the firm failed to agree to a 6% increase in wages. The Union might apply for the right to strike by the weekend, he said.

Main insurance company's BEE on track

Shareholders gave a leading insurance company the go-ahead yesterday to implement the group's R7,2 billion black economic empowerment (BEE) deal that will benefit over 500 000 people. At an extraordinary general

meeting of the insurance company, the shareholders voted overwhelmingly in favour of proposals that will increase the black shareholding in the group's South African businesses.

- a) Can you think of possible reasons, apart from wage increases, why workers may embark on industrial action to convince management of their grievances?

- b) Do workers have the right to strike? (You may have to research the BCEA - www.labour.gov.za .) Should all workers have the right to strike?
- c) What are the possible benefits for the leading insurance company in implementing the BEE deal?
- d) In terms of BBBEE, who should benefit from the deal, and how will this help them?

Question 3

Activity 1 (P.30 MACMILLAN Business Studies for All)

- a) Discuss how Apartheid affected Black people in the job market. (Remember that “Black” is the generic term the government uses, and includes Indian and Coloured people). You may have to ask your parents, caregivers, or History teacher to give you more information. Try and do some research on your own to add to the group discussion and then report back to the class when you are ready.
- b) What do you understand about the terms ‘democracy’, ‘discrimination’ and ‘transformation’? Look these words up in a dictionary, and then formulate your own definition. Write brief notes on why it was so necessary to bring in new laws to ensure all citizens have equal rights.

Links

[http://www.mindset.co.za/resources/0000068539/0000161256/0000164912/BS%20Gr%2012%20Session%2003%20LN%20\(E%20BEE%20NCAAct\)%202011%20rev.pdf](http://www.mindset.co.za/resources/0000068539/0000161256/0000164912/BS%20Gr%2012%20Session%2003%20LN%20(E%20BEE%20NCAAct)%202011%20rev.pdf)