

INDUSTRIAL RELATIONS

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Lesson Description

In this lesson we:

- Investigate developments in industrial relations that relate to contemporary business practice.
- Discuss industrial relations including:
 - History of trade unions
 - Functions
 - Role of trade unions
 - Grievance procedures
- Look at exam and general questions

Key Concepts

Industrial Relations (IR)

- Industrial relations cover the relationship between management and employees and how they interact, and through which they regulate conflict in the workplace.
- It also focuses on the relationship between management and, particularly, groups of workers represented by a trade union.
- Different legislation aims to organise the relationship between employers and employees in the work place to ensure labour peace and democracy.
- There must be collective bargaining in the workplace to solve differences between different parties to prevent that one of these parties is disadvantaged.
- Human resource managers must understand these relations and must apply them within the business.

Important Terminology (IR)

- **Grievance** - A conflict of interest between the employer and employee.
- **Dispute** - A conflict of interest between the employer and members of a trade union.
- **Negotiate** - A discussion between conflicting parties aimed at reaching an agreement.
- **Conciliation** - Parties to a dispute bring their dispute to a neutral third party who acts (only) as a go between.
- **Mediation** - Negotiations to end a dispute are handled by a neutral, third person, a
- **Mediator**, who can suggest solutions, but the mediator may not instruct the conflicting parties.
- **Arbitration** - An arbitrator is a neutral third person hears both sides of the story and then decides how the dispute will be resolved. There is no appeal against a decision made by an arbitrator.
- **Collective bargaining** - Negotiations between workers (who are grouped together in unions) and employers about aspects such as working conditions, wages and working hours.
- **Deadlock** - When an employer and trade union cannot reach an agreement.
- **Lockouts** – Employers lock the premises so as not to allow striking employees to enter.

The History of Trade Unions

- Trade unions had their origins in the guild system of medieval Europe in the 13th century.
- Merchant guilds, consisting of all the specialist traders in a town, were the forerunners of craft guilds. The guilds restricted membership to a particular craft or trade, such as metalwork.
- Members of these guilds progressed from apprentice to craftsman to journeyman, and eventually grandmaster.
- The guilds defined the terms of apprenticeships and length of service, and fixed the prices for manufactured products.
- No unskilled workers were allowed to join, and the guild also limited the number of apprentices to each guild.
- With the introduction of machinery during the 17th and 18th centuries, a bigger gap developed between workers and the owners of businesses.
- The guilds no longer afforded the protection of the past, which led to workers organising themselves outside the workplace.
- Workers grouped themselves into different trades known as 'friendly societies' to negotiate better working conditions and wages.
- In Britain, parliament passed a bill to ban any form of workers' organisations, which forced them to go underground and form secret societies.
- These illegal societies were responsible for the first series of strikes in Britain.
- In the 19th and 20th centuries the unions became less rebellious and mainly concerned themselves with defending the interests of craftsmen, rather than organising workers against employers.
- In France, Germany and other European countries, socialist parties and anarchists played a prominent role in forming and building up trade unions, especially from the 1870s onwards.
- In South Africa the first unions, such as the SA Boilermakers' Union, consisted of artisans and were mainly White.
- In 1922 some gold mines decided to employ semi-skilled African workers in positions previously reserved for Whites.
- Lower wages were to be paid to the African workers in an attempt to cut costs. Widespread strikes and unrest followed in the mining areas of what is the Gauteng province today.
- The army had to be called in to suppress the uprising.
- Only in the mid-1930s did African workers start to join unions in larger numbers.
- As more African workers were employed in the mines and in industry, these unions mobilised the community against the Apartheid regime.
- In 1985 the Congress of South African Trade Unions (Cosatu) was established.
- Cosatu is a large trade union consisting of many affiliated unions, such as the South African Commercial, Catering and Allied Workers' Union (SACCAWU), South African Democratic Teachers Union (SADTU), etc. Cosatu joined the United Democratic Front in a mass democratic movement in 1985 to fight against Apartheid.

- Cosatu is still an alliance member of the ANC, but is mainly concerned with improving and protecting the rights of members.

The Aims of Trade Unions

Trade Unions are established for the following reasons

- To improve the working conditions of their members.
 - To ensure that workers are treated fairly in the workplace.
 - To protect the job security of members.
 - To strive towards improving the financial welfare of members.
 - To promote the training and education of members.
 - To achieve workplace democracy by taking part in the decision-making process.
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- Trade unions have to be managed to reach these aims and therefore have to be carefully structured.
 - Members usually elect shop stewards to act as a bridge between the union, members and management.
 - The elected shop stewards form committees and then act as the representatives of the members, being the intermediary between the employees and the employer.
 - Branch offices are also established by trade unions with full-time employees in their service to serve the members in a particular area.

Roles

- To improve working conditions and terms of employment.
- To be involved in decision-making processes.
- To ensure that workers are treated fairly at work.
- To strive to ensure that workers get a fair share of wealth generated by the business enterprise.
- To try to improve social security.
- To achieve greater control over the management of employment relationships.
- To resolve grievances and disputes in the workplace.
- To try to prevent retrenchments.

Functions

- Represent people at work.
- Lobby with government and other decision-makers to ensure the best possible deal for workers.
- Take part in collective bargaining processes.
- Protect the rights of members in the workplace.
- Negotiate equitable wages and benefits.
- Support gender equality.
- Provide and restructuring medical aids.
- Access pension and provident funds.

Examples of Trade Unions

- **SADTU** – South African Democratic Teachers Union
- **SASGU** – South African Security Guards Union
- **SATAWU** – South African Transport and Allied Workers Union

Most trade unions affiliate with a central union, e.g. COSATU. This is known as a trade alliance which, in turn, gives more bargaining power to the unions.

Workers' Rights

Our new Constitution of 1996 entrenches the following workplace rights:

- Fair labour practices: Everyone has a right to fair labour practices.
- Rights to associate: Every employee has the right to form and join a registered trade union and to take part in its programme and activities. Every employer has the right to form and join an employers' organisation and to take part in its activities.
- Rights to collective bargaining: Every employer's organisation or trade union has a right to collective bargaining.
- Right to strike: Every employee has the right to strike (provided the rules and procedures are followed).

The Labour Relations Act

The Labour Relations Act (LRA) spells out how employers and trade unions should function together. It provides a set of rights and a framework for union organisation, collective bargaining, and the resolution of disputes and strikes. The Commission for Conciliation, Mediation and Arbitration (CCMA) and the Labour Court were established by the LRA. These two bodies help ensure fairness and justice in the workplace.

The LRA includes provisions on

Freedom of Association

- In line with the Constitution, every employee has the right to form and join a trade union and take part in its programme and activities.
- Every employer has the right to form and join an employers' organisation and to take part in its activities.

Organisational Rights

- If a trade union meets certain criteria, such as being registered, it may claim certain organisational rights.
- Officials may request the right of access to a workplace, the deduction of union subscriptions, and officials may request leave from work to attend to trade union matters.

Strikes

- Employees have the right to strike, provided the process is followed properly.
- Employers may choose to lock employees out of the workplace during a strike.
- The LRA states what procedures must be followed in the event of a strike or lock out.
- For a legal (protected) strike to take place the dispute must be referred to a bargaining council, a workplace council, or the CCMA.
- These bodies have 30 days, or any further period agreed upon, in which to resolve the dispute.
- A certificate is then issued if an agreement has not been reached. At least 48 hours notice must then be served on management that a strike is going to take place.
- The trade union should hold a ballot (ask members to vote) to obtain the majority support of union members to commence strike action.
- Workers are not paid their wages whilst on strike.

Protest Action

- Employees have the right to take part in protest action to defend their socio-economic interests.
- Again, the correct procedures must be followed for protected (legal) protest action.

No Unfair Dismissal

- Employees have the right not to be unfairly dismissed – the LRA lays down the exact procedure which must be followed when dismissing workers.

No Unfair Labour Practices

- Employees have a right not to be subjected to unfair labour practices, such as any form of discrimination on the grounds of race, gender, age or disability.

Types of Industrial Action

Strikes

An organised stay-away action from the workplace to try and convince the employer to attend to employees' grievances. However, employees do not get paid for the time they are on strike - no work, no pay.

Go-slow

Employees work at a slower rate and this has a negative influence on production. They use this method to bring their grievances to the attention of the employer.

Picketing

Processions organised by trade unions where employees can demonstrate about grievances in a peaceful manner.

Grievance Procedures

- All businesses have employees who are not satisfied for different reasons, e.g. working hours, remuneration, work environment, etc.
- This usually results in a conflict of interest between the employer and employees.
- These grievances must be resolved correctly so as to prevent further disputes.
- These procedures give employees the opportunity to communicate their grievances with management.

Steps in resolving a grievance (Bottom – up)

Employee gives written statement of grievance

- If the grievance cannot be resolved, the employee lodges a grievance with the next level of management.

Employer and employee meet

- A meeting is held with the employee at a time that is suitable and agreed upon by both the employer and the employee.
- The meeting should be attended by the employee, a trade union representative, the supervisor and the relevant manager.
- The employee is informed of any decision made.
- If the grievance is still not resolved, the employee lodges a grievance with the highest level of management.
- Another meeting is arranged and attended by the employee, a trade union representative, the supervisor and the relevant manager.

Appeal if necessary

- If the employee wishes to appeal against the disciplinary action that has been decided, the employee must be invited to a further hearing
- If the matter cannot be resolved, a dispute will be declared and the matter will be referred for mediation or arbitration. (CCMA)
- Matter can also be referred to the Labour Court.

Questions

Question 1

(Adapted from *Business Studies for All, Grade 12, Page. 203, Activity 4*)

Read the case study and answer the questions that follow:

LJR Frozen Food Manufacturers

The workers of this company, who belong to the South African Commercial, Catering and Allied Workers' Union (SACCAWU), have finally had enough of being treated badly at their workplace. The rules and regulations of the BCEA are not being followed, and several workers have been dismissed without the proper procedure being followed. The factory supervisor, Joel, is very abusive towards the workers, and yesterday, he refused Patience, a worker in the factory, time off work to attend her sister's funeral. The workplace is dirty, and some of the machinery is unsafe. The workers also do not receive wage slips and do not know what deductions are being made.

They got together after work and discussed what their next move should be. Nomsa, who is a food packer, suggested that they should call a strike. She believes that this is the last resort to get senior management to pay attention to their grievances and to change its attitude towards the workers. They have tried on many previous occasions to address their grievances with Joel, but nothing has changed.

The workers called on their shop steward, Joshua, who again brought the grievances to the attention of Joel, their immediate supervisor, but nothing has happened. The workers then held a ballot during which all but one voted in favour of embarking on strike action. The shop steward, Joshua, then served a 48-hour notice on Joel that the workers were going to embark on industrial action in the form of a strike.

- Is Nomsa's suggestion appropriate? Explain your reasons.
- With the section on the LRA in this Unit in mind, and your knowledge of Unit 4 in Module 3, decide whether the workers have the right to strike. Try to conduct further research into the LRA to get more detailed information on strike action and procedures.
- What are the steps to be followed by the workers in order to call a legal strike?
- What can the workers do if their strike action fails to elicit any response from the management of the company?

Question 2

(Adapted from *Business Studies for All, Grade 12, Page. 206, Activity 5*)

Read the case study and answer the questions that follow:

Nomsa, the food packer, was dismissed by the company because they firmly believed that she instigated the strike. However, Nomsa argues that she merely discussed with her fellow workers the fact that they are being treated unfairly, and tried to decide what to do about it. She also said that she alone cannot call a strike. The union representative, Joshua, called the workers to a meeting after Patience reported that she was unable to attend her sister's funeral. At this meeting, the workers (except one) voted to call a strike. She also pointed out that they have on various occasions tried to get their disputes settled. Nomsa then decided to take the matter to the CCMA, but she is unclear about the correct procedure to be followed in order to bring her case about unfair dismissal to this institution.

- Identify the unfair labour practices in the case study in Question 1 and Question 2.
- What is the legal position regarding salary and wage slips?
- What is the term used for the type of leave a company should grant when a close family member of a worker dies?

- d.) Is this type of leave covered in the BCEA, and how much is granted?
- e.) Do you think Nomsa has a case for unfair dismissal?
- f.) What procedures should she follow before she resorts to the CCMA?

Question 3

(Adapted from Nov 2009, NSC, Question 2.6)

State SIX functions/roles of trade unions.

(12)

Question 4

(Adapted from Exemplar 2008, NSC, Question 4.4)

You have passed Grade 12. You are currently employed at an industrial company which manufactures car seat covers. Your fellow-workers requested that you join the trade union. What would be your response? Motivate your answer.

(10)

Links

[http://www.mindset.co.za/resources/0000070745/0000165529/0000169548/BS%20Gr%2012%20Session%2018%20LN%20\(Indus%20Rel\)%202011.pdf](http://www.mindset.co.za/resources/0000070745/0000165529/0000169548/BS%20Gr%2012%20Session%2018%20LN%20(Indus%20Rel)%202011.pdf)