

REVISION: HUMAN RESOURCES**20 JUNE 2013****Lesson Description**

In this lesson, we revise:

- Legislation related to: recruitment and selection; employee contracts; induction and placement; salary administration; employee benefits and skills development.
- Industrial relations and managing conflict in the work place

Key Concepts**The Human Resources Department**

- In a small business one person will be responsible for managing the human resources, usually the owner or a manager.
- In large businesses an entire department may be responsible for this function. A human resources (HR) manager heads the department.
- This department is responsible for analysing the employment needs of the business, finding suitable people to fill these positions, and developing and training the staff once they are employed.
- In managing the staff - the HR manager must ensure that the relevant labour legislation is followed.
- Records and details of the workers must also be maintained, and the safety and health of the workers must be ensured at all times.

Legislation Impacting on the Human Resources Function

- Labour Relations Act (LRA) (Act 66 of 1995)
- Basic Conditions of Employment Act (BCEA) (Act 55 of 1998)
- Employment Equity Act (EEA) (Act 55 of 1998)
- Skills Development Act (SDA) (Act 97 of 1998)

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.

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.

Questions

Question 1

(Adapted from March 2009, NSC, Question 4)

Read the case study and answer the questions that follow:

APPLICATION FOR A VACANCY

Thembi studied at a technikon. She has a diploma in Travel and Tourism but has been unsuccessful in securing a job.

Thembi saw an advertisement for a receptionist at Trust Lodge in the classified section of the newspaper and applied for the position. Thembi was the only applicant and was appointed to the post. Trust Lodge does not have an employment contract.

Thembi had no interest in the job as a receptionist of which the management of Trust Lodge were fully aware. Thembi spoke openly about her lack of interest in the job. She had to obtain some form of employment in order to earn an income to meet her financial obligations.

- a.) If you were the manager of Trust Lodge, would you employ Thembi?
Motivate your answer. (6)
- b.) Suggest any FIVE clauses that Trust Lodge could include in its employment contract. (10)
- c.) Would the clauses listed in QUESTION (b.) have helped in avoiding the crisis that Trust Lodge is currently experiencing? Explain your answer. (6)
- d.) List any FIVE aspects that Trust Lodge would include in their implementation of the induction and placement process for Thembi. (10)
- e.) Name the Act that regulates the employment contract between Trust Lodge and Thembi. (2)

Question 2

(Adapted from Various DoE Sources)

- a.) This step matches the right person to the job description:
 - A Recruitment
 - B Interview
 - C Selection
 - D Psychometric test
- b.) Legislation makes provision for this compulsory deduction from an employee's salary:
 - A Staff social club fee
 - B Income Tax
 - C Trade union membership fees
 - D Insurance

- c.) A potential employee is officially on the payroll of a business as soon as the person ...
- A signs the employment contract.
 - B shortlisted.
 - C has been interviewed.
 - D passes the medical test.
- d.) ...deal(s) with the evaluation of employees in the workplace with a view to an increase in their wages and salaries.
- A Staff development programmes
 - B Counselling
 - C Performance appraisal
 - D Team-building exercises
- e.) Internal recruitment can be done by advertising ...
- A on staff notice boards.
 - B in national newspapers.
 - C on regional radio stations.
 - D on the Internet.

Question 3

(Adapted from Nov 2009, NSC, Question 8)

Anthony Chanderman is a professional labour consultant based in Cape Town. He has been requested by Sun International to do a presentation to newly appointed human resources managers on the processes and procedures relating to human resources management.

Discuss the various human resources steps that Chanderman needs to follow in his presentation to the human resources managers of Sun International. Indicate the significance of each human resources step in your answer. Suggest whether human resources managers should follow the various steps at all times. Substantiate your answer. [40]

Question 4

(Adapted from Nov 2010, NSC, Question 4.4)

Read the case study and answer the questions that follow: State the main causes of the conflict in the above case study.

CONFLICT IN THE WORKPLACE

Peter is the marketing manager of Bush Lodge in King Williams Town. He employs three workers, Vusi, Jane and Busi. He dislikes Vusi and treats him differently from the two female employees.

He requires Vusi to work on weekends and to work overtime without payment, but he pays the other two workers for weekends and overtime worked. Vusi is considering quitting his job if he is not transferred to another department.

- a.) State the main causes of the conflict in the above case study.
- b.) Name THREE other causes (NOT from the case study) of conflict in the workplace.
- c.) Give Vusi advice on the different ways in which he can overcome his dissatisfaction as an employee at Bush Lodge.

Question 5

(Adapted from Mar 2010, NSC, Question 2.1)

Read the case study below and answer the questions that follow.

LABOUR MATTERS – DRUGS AND SUBSTANCE ABUSE

The management of Laduma Ltd was suspicious about the behaviour of certain factory workers whom they suspected of being under the influence of either drugs or alcohol.

During the past seven months, three employees who were allegedly using drugs on duty, were dismissed by management immediately. This was a concern, because it led to serious conflict between management and employees in the workplace, lower productivity, and low morale amongst the workforce.

The three dismissed workers submitted written statements to the union claiming that they did not use drugs while on duty.

The company met with the union through the workplace forum and was requested to reinstate the three employees. Laduma Ltd had no policy in place, a formal disciplinary hearing regarding their dismissal was not held, and there was no evidence provided by the company as reasons for their dismissal.

- Name any TWO causes of conflict from the above case study.
- State FIVE steps that management should follow when resolving conflict in the workplace.
- Describe the functions of the workplace forum at Laduma Ltd.
- Outline ways that Laduma Ltd could use to avoid the conflict that arose between staff and management as a result of the dismissal.

Question 6

(Adapted from *Business Studies for All, Macmillan, 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.

- a.) Is Nomsa's suggestion appropriate? Explain your reasons.
- b.) 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.
- c.) What are the steps to be followed by the workers in order to call a legal strike?
- d.) What can the workers do if their strike action fails to elicit any response from the management of the company?

Question 7

(Adapted from Business Studies for All, Macmillan, 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.

- a.) Identify the unfair labour practices in the case study in Question 1 and Question 2.
- b.) What is the legal position regarding salary and wage slips?
- c.) 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 8

(Adapted from Nov 2009, NSC, Question 2.6)

State SIX functions / roles of trade unions.

(12)