

## LRM 2601 Exam Revision

Oct/Nov 2016; May/June 2017; October/November 2017; and May/June 2018

### **CHAPTER 1:**

### **INTRODUCING SOME FUNDAMENTALS OF EMPLOYMENT RELATIONS**

#### **FOUR DIMENSIONS OF EMPLOYMENT RELATIONSHIP:- (Pg 22 of SG)**

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- **Formal dimension:**  
Parties have specific rights and duties based on official agreements between them. This can be individual or collective.  
Whether employment contract is verbal or written, it is an agreement between the parties.  
Characterised by certain agreements, rules, laws, regulations and formalities.
- **Informal dimension:**  
This refers to the dynamic aspects of human behaviour.  
This could include human behaviour in a group context (informal collective dimension); or in the context of the individual dimension.  
It includes aspects and consequences which arise from the feelings and ideas the various parties have about each other, their values, needs and outlook on life, as well as their preferences and perceptions of each other.  
Justice Perceptions  
Distributive justice
- **Collective dimension:**  
Workers can organise into groups and enter into discussions as a group with management or groups of employment.  
This is referred to as labour-management relationship or the union-employer relationship.  
Labour organises workers in groups known as trade unions; act as representatives of their members.  
As a group, the union has a specific relationship with management; i.e.: intergroup relations
- **Individual dimension:**  
Every individual has an employment relationship with the organisation.  
Each worker interacts every day with the organisation.  
The worker has a specific relationship with the organisation; from management to colleagues as individuals. (individual / interpersonal / human relations)

## **THREE DIMENSIONS OR ASPECTS OF JUSTICE (JUSTICE PERCEPTIONS)-**

**Pg21-27)**

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### **DISTRIBUTIVE JUSTICE**

Distributive justice in employment relations concerns itself with perceived fairness of organisational outcomes they receive. Focuses on the perceived fairness of distributions or outcomes, i.e.: how employees perceive their compensation compared with that of others.

### **INTERPERSONAL JUSTICE**

Perceived fairness of treatment by decision makers. The manner in which outcomes are communicated to employees at an interpersonal level. In employment relations, it relates to the employees perceived fairness of the interpersonal treatment they receive from authority figures.

### **PROCEDURAL JUSTICE**

The employees perceived fairness of the substance of decisions or outcomes. This is about the process that is used to make decisions, i.e.: when an organisation decides to retrench employees when there is no real economic need for the retrenchments, this could be perceived to be procedurally unjust.

## **THEORETICAL PERSPECTIVES:- (Pg 9-11)**

### **Pluralist perspective:**

- views the employing organisation as a coalition of individuals/groups with diverse objectives, values and interests
- distinct sectional groups with its own interests, objectives and leadership
- competitive in terms of leadership, authority and loyalty

### **Unitarist perspective:**

- views organisation as group of people having a unified authority structure with common values, interests and purpose
- management has authority and is expected to provide appropriate leadership
- conflict is unnecessary
- employees are expected to be loyal to the organisation and management
- working in harmony, conflict is undesirable
- trade unions are unnecessary and dysfunctional

### **Radical perspective:**

- related to Marxist thinking
- workers are oppressed for the sake of capital interests
- conflict is always rooted at macro level
- trade unions are unavoidable
- political process is aimed at changing socioeconomic and political systems

### **Unitarism:**

- regulated market economy, state favouring employer interest
- employers/employees committed to goals and share similar values
- conflict is unnatural
- trade unions are unnecessary, promotes distrust and conflict, should be avoided
- decision-making is an employer prerogative
- strikes should be dismissed

### **Pluralism:**

- market-driven, state aspiring, balance between unions and employers
- employers/employees have conflicting goals, acknowledges interdependence
- conflict is natural, but must be managed structures and procedures
- trade unions are necessary, represent employees' interests
- right to strike within a framework of rules

## **MACRO-EXTERNAL FACTORS:- (Pg31-36)**

### **Socioeconomic factors –**

- Factors such as the country's economic growth rate, inflation, taxation and interest rates may all have an effect on employment relations.
- If the economy is sluggish, this may cause a drop in the demand for products/services.
- This will lead to increased unemployment because too few job opportunities are created in relation to the number of new job-seekers entering the market from school, college or university.
- People who are unemployed are often jealous of those who do have jobs, earn money and make a decent living. This may lead to envy, conflict, crime and ultimately violence in the community.
- This leads to worker's lives being threatened and this may cause employees to have feelings of uncertainty, anxiety and stress.
- It can also lead to developing health problems. These problems may in return lead to absenteeism and other negative behaviours that may negatively affect the performance and outputs of the rest of the workforce, which can have a detrimental effect on productivity and the way employees are managed at work.
- These dynamics can affect the performance and competitiveness of the organisation.

### **Sociopolitical dynamics –**

- Government promotes and enforces all the relevant legislation that impacts directly on employment relations.
- Organised labour and organised business are also directly engaged to take part in the process of drafting and/or amending labour-related legislation.
- The primary structure through which this is facilitated is the NATIONAL ECONOMIC DEVELOPMENT & LABOUR COUNCIL (NEDLAC).
- As political democracy is more of a reality, workers may tend to strive to be more involved in management decisions.
- Labour legislation also encourages greater industrial democracy; hence workers want to be more informed about organisational issues and developments that may affect their lives.
- Coupled with this is the growing level of expectations among workers and the unemployed and the population in general.

### **Technological and ecological factors –**

- Developments on the technological front also have potentially significant implications for labour relations.
- Some trade unions believe that employers do not only apply new and more sophisticated technology to lower labour costs and minimise union activities, but that mass production technology can lead to employees becoming alienated from their work.
- Technological progress can be hugely beneficial for society and all parties to employment relations as the economy of a country using advanced technology expands rapidly.
- When new and improved technology is correctly utilised and introduced sensibly and responsibly by engaging organised labour and encouraging employees to use technology, organisations can provide better quality goods at competitive prices.
- This leads to an increase in sales, expansion, increased production and the creation of new positions. The upshot of this is better qualified, more skilled and more skilful workers who can earn better salaries and improve their quality of life.

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## **ORGANISATIONAL LEVEL FACTORS:- (Pg38-39 of SG & 37-39ofTB)**

### **General Management Factors**

- Certain management decisions are traditionally regarded as being purely the prerogative of management.
- These decisions include matters such as new markets, expanding the enterprise or cutting back on its activities and eliminating some of the products or production lines.
- These decisions can ultimately affect the area of labour relations
- Enterprise cannot simply amalgamate blindly, without considering the labour factor.
  
- A decision to scale down the enterprise activities also impinges on labour relations, since it could lead to workers having to be laid off. In these cases, fair staff retrenchment practices must be followed such as consulting with the representative bodies of the workers before hand and using fair criteria when choosing which workers to lay off.

### **Structural Factors**

- The way in which organisation is structured also plays a role in labour relations. The wider the span of control (number of subordinates per authorised supervisor) the more difficult the task of supervisor becomes.
- Too much emphasis on formal structures for communication and control (too many forms, rules and regulations) can also interfere with the quality of labour relations.
- When employees are not well informed or when decisions do not filter through them quickly enough, uncertainties, rumours and dissatisfaction may arise. This can lead to unproductivity and to general frustration in the organisation and ultimately poorer labour relations.

### **General Organisational Variables**

- Contextual factors, such as ownership, size, geographic distribution and the location of the organisation also have an impact on labour relations. The more workers an organisation has the more widely diffused its operations and sites are, the more difficult it is. (e.g. to establish adequate communication between management and workers)

## **CHAPTER 2:** **ACTORS, OR ROLE PLAYERS, AND STAKEHOLDERS IN EMPLOYMENT RELATIONS**

### **TRADE UNIONS (Pg71-72)**

**Trade Union:** A voluntary but deliberately formed organisation created for employees by employees to enhance organisational and social justice through serving the interests of the working class in the society and of the employees at the workplace.

#### **Types of trade unions**

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**Occupational unions** – organise and recruit their members from employees in certain occupations.

**Craft unions:** recruit members of specific skills

**Industrial unions** – define their domain in terms of specific industries or groups of industries, i.e.: mineworkers, autoworkers, steelworkers.

**General unions** – do not restrict membership in terms of skills or industry. They function on the principle of commonality of worker interests. They strive to absorb all workers.

#### **Functions of trade unions:**

- R**● Represent members at negotiations
- A**● Assist in disciplinary processes
- A**● Assist in grievance process
- A**● Aid security of employment
- F**● Federations serve on national bodies
- I**● Improve physical working conditions
- I**● Influence government on social and economic policy matters
- M**● Monitor wages and working conditions agreements
- O**● Organise strikes as last resort
- P**● Participate in management decisions
- P**● Provide social services



### **Why workers join trade unions:- (Pg77-78)**

- Employees feel that unions will help protect their jobs.
- Protection provided to the employee
- The service provided to the member on an individual basis
- For improvement of the employment conditions of the employee
- Assumption that the trade union will bargain better wage increases
- Workers join the unions because of their political beliefs.
- People join trade unions because of a lack of need satisfaction in respect of their employment situation and their status in society.

### **Trends that impact union movement: (Pg 72-74)**

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- **Lack of employment in the formal economy:** the supply for work seekers increasingly outstrips the demand for full time employees in the formal economy.
- **Increased pace and magnitude of globalisation:** This leads to intense competitive pressure in products, services and labour markets.
- **Technological change presenting challenges and opportunities:** The results of technological changes has also been that it is becoming easier for service delivery units to become geographically dispersed outside some urban labour markets.
- **Growth in insecure types of employment:** Practices such as subcontracting, outsourcing and the hiring of temporary and part-time workers have become common.
- **Growth of small businesses rather than larger organisations:** Technological changes makes it possible to reshape production through new forms of industrial organisation.
- **Changes in skill compositions of the workforce:** shift away from a heavy industrial-driven economy to a more knowledge-based economy means that there is also a changing skills composition of the workforce.
- **Change in demographic workforce: Increase in women workers:** entry of women into the labour market changes the priorities and agendas of unions, women often have a need for flexible working arrangements.

- **Change in demographic workforce: Increase in younger workers:** younger generation of employees seems to attach less value to collective learnings.

### **ORGANISATIONAL RIGHTS OF UNIONS:- (Pg 181)**

<b>Level of representivity</b>	<b>Rights entitled to</b>
<b>Majority Union</b>  <b>Condition:</b> 50%+1 of employees must be members	Union access to the workplace Deduction of subscriptions or levies Leave for trade union activities Shop stewards representatives Disclosure of information
<b>Most representative union (under certain conditions)</b>	Union access to the workplace Deduction of subscriptions or levies Leave for trade union activities Shop stewards representatives Disclosure of information
<b>Sufficiently representative Union</b>  <b>Condition:</b> CCMA decisions vary: between 10% and 30% required	Union access to the workplace Deduction of subscriptions or levies Leave for trade union activities
<b>Significant interest or substantial representation (under certain conditions)</b>	Union access to the workplace Deduction of subscriptions or levies Leave for trade union activities

## **TWO TYPES OF UNION AGREEMENTS:- (Pg 193-194)**

### **Agency shop agreement:**

A softer form of union security arrangement which the employer and the majority union agree that all employees within an agreed bargaining unit who are not willing to belong to a registered trade union must pay agency fee that is not higher than the normal union fee. (e.g Payment of non-union members fee)

### **Closed shop agreement:**

An employer and the majority union enter into an agreement that all employees covered by the agreement (i.e bargaining unit) must become members of a majority union.

In essence, employees have no choice but to join the union or resign from the employer.

## **NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL (NEDLAC):- (Pg 104)**

### **NDLAC Four Stakeholders**

- Organised labour
- Organised Businesses
- Government
- Community

### **MANDATE/FUNCTIONS OF NEDLAC:- (Pg103)**

- Consider all significant changes to social and economic policy before they are implemented or introduced to parliament.
- Consider all proposed legislation relating to labour market policy before it is introduced to parliament
- Consider socioeconomic disputes in terms of Section 77 of the Labour Relations Act.
- Strive to promote the goals of economic growth, participation, economic decision making and social equity.
- Seek to reach consensus and conclude agreements on matters pertaining to social and economic policy
- Encourage and promote the formulation of coordinated policy on social and economic matters

## **COMMISSION FOR CONCILIATION, MEDIATION AND ARBITRATION (CCMA):- (PG197)**

**CCMA**- a body independent of the State and of any other political party, union, employers' organisation or federation of union

### **Functions of the CCMA:- (Pg198)**

- To attempt to resolve, through conciliation any dispute referred to it in terms of LRA
- To arbitrate the dispute if it remains unresolved after conciliation
- Assist in establishing workplace forums
- Compile and publish statistics about its activities
- Accredite bargaining councils and private providers to conduct some of the conciliation and arbitration function of the commission

### **Governing body of the CCMA:- (Pg199)**

- A member of the governing body
- The director
- A commissioner
- A staff member of the commissioner
- Any other person

## **CHAPTER 4**

# **CORE LABOUR LEGISLATION IMPACT ON THE EMPLOYMENT RELATIONSHIP**

## **PROTECTION OF EMPLOYEES AND PERSONS SEEKING EMPLOYMENT:- (Pg 171) & Freedom of association:**

Labour Relations Act stipulates that every employee has the right, subject to its constitution, to join and participate in the formation of a trade union or federation of trade union.

This means that no person may discriminate against an employee by; forcing an employee or a person seeking employment not to be or become a member of a trade union or workplace forum, or to give up membership of a trade union or workplace forum.

## **THE EMPLOYMENT RELATIONSHIP: LEGAL PERSPECTIVE:- (Pg164)**

**Common Law:** refers to all legal rules not found in legislation. It focuses on the rights and duties of individuals.

### **Duties of the employer @ Common law:- (Pg85 of SG)**

- Pay the employee
- Provide safe and healthy working conditions
- Provide work for the employee
- Not make the employee do work junior for what he/she was employed
- Not contract the employee's services to another employer without consent

### **Duties of the employee @ common law:- (Pg85 of SG)**

- Perform his/her work faithfully and diligently
- Obey reasonable orders given
- Not deal dishonestly with the property of the employer
- Not compete in his/her private capacity with the business of the employer

## **Contract of employment:- (Pg165)**

The contract must comply with requirements set for all valid contracts

- Parties must have contractual capacity
- Performance of the contract must be possible (e.g. if a foreign national does not have a valid work permit, he or she may not be employed)
- The contract may not be *contra bonos more* (against public moral values, e.g. prostitution)
- Contract must comply with formalities which may be prescribed (.e.g. all temporary contact must be in writing)
- Parties must reach consensus on the essential terms of engagement (.e.g. salary, supervision by the employer and the nature of the functions to be performed).

## **TEMPORARY EMPLOYMENT SERVICES:- (Pg 166-167 & Pg88-SG)**

### **Temporary Employment Services TES**

- The employee is provided to the client by the TES.
- In terms of LRA the TES is deemed to be the employer and not the client for whom the work is done.
- To be classified as TES, the agency must provide “workers’ to a client for a fee and the worker is paid by TES
- Contract is between TES and the employee

### **Temporary employees**

- May not be employed for longer than three months, unless there is a valid justification to do so, when this employees earn more that stipulated threshold R205 433.30per annum.

### **Fixed-term employees**

- Entered for a specific period or event or task

### **LABOUR COURT:- (Pg205)**

The **Labour Court** is a superior court with authority and inherent powers, and standing equal to a court of a provincial division of the High Court.

### **Functions of the Labour Court:- (Pg107-SG)**

To handle disputes about;

- Freedom of association
- Automatically unfair dismissals
- Dismissals on the ground of operational requirements
- Unprotected strikes or protest actions
- Rights connected with picket lines
- Appeals against refusal of admission to a bargaining council
- Payment and application of agency fees.

### **Powers of the Labour Court:- (Pg107-SG)**

- Issuing of court orders (e.g provision of urgent interim legal aid; granting interdicts)
- Ordering compliance with the Act
- Settling dispute between members of a trade union and the union itself about alleged non-compliance with the trade unions constitution
- Revision of any decision taken by the state or any act performed by the state in its capacity as employer.

### **Functions of the Labour Court Appeal:- (Pg 108 –SG)**

**Labour Appeal Court:** is the final court of appeal against all judgements and orders passed and issued by the Labour Court. It is a superior court with inherent powers and standing equivalent to those of the Appellate Division of the Supreme Court.

Its function is to hear and determine all appeals against the final judgements and final orders of the Labour Court.

## **TWO TYPES OF LABOUR DISPUTES:- (Pg174)**

**Disputes of rights** – disputes concerning the alleged infringement of a party's rights in terms of contract, collective agreement or legislation.

- E.g. infringement of other parties right relating to the implementation, interpretation or violation of existing rights, whether such right flow from statutory law, collective agreements or individual employment contracts.
- When one party believes that the right has been violated, it will first try to negotiate with the other party.
- If the right is not restored, the party will declare a dispute and will eventually be settled by arbitration or a legal decision.
- Parties to a dispute of right should not become involved on a industrial action.
- Attempt can be made here to sort out the problem by conciliation or mediation before it is referred to the judgement of a third party.

**Disputes of interest** – concern changes to the status quo. (E.g. demanding higher wages, trade union demanding recognition as exclusive bargaining agent, therefore establish an entitlement through collective bargaining or industrial action)

- Once the agreement has been reached it becomes legally enforceable, and failure to comply with it becomes a dispute of right.

## **DISPUTE RESOLUTION MECHANISMS:- (Pg109-SG)**

- **Conciliation**: a third party bring the parties together but does not intervene
- **Mediation**: a third party actively attempts to bring about a resolution, but cannot take a final decision
- **Arbitration**: a third party is taking a decision which is binding for both parties.
- **Conciliation-arbitration (known as con-arb)**: with the consent of both parties involved a dispute may directly be referred to arbitration if not solved through conciliation
- **Adjudication**: a court of law decides a dispute.



### **THE INTERNATIONAL LABOUR ORGANISATION:- (Pg60-SG)**

A specialised agency of the United Nations and endowed with its own legal persona. It operates along the lines of tripartism.

It consist of three main components namely:

- International labour conference (ILO supreme organ)
- Governing body (executive organ of the ILO)
- International labour office (permanent secretary of the ILO)

### **BARGAINING COUNCIL:- (PG184)**

Voluntary institutions established between one or more registered trade unions and one or more registered employers organisations for a sector, or area, in order to facilitate collective bargaining.

### **DISPUTES WHICH BARGAINING COUNCIL CAN RECEIVE**

#### **ACCREDITATION:- (Pg187)**

- Conciliation
- Arbitration
- Disputes relating to unfair dismissals
- Unfair labour practice
- Severance pay

### **DISPUTES WHICH BARGAINING COUNCIL MAY NOT RECEIVE**

#### **ACCREDITATION:- (Pg187)**

- Organisational rights, including disclosure of information
- Agency and close shop agreements
- Picketing
- Refusal to bargain
- Ministerial determinations concerning statutory council recommendations
- Interpretation of collective agreements which do not contain a dispute procedure
- Joint decision making in workplace forums and disclosure to workplace forums

## **CHAPTER 5**

### **OTHER LABOUR LEGISLATION IN SOUTH AFRICA**

#### **PURPOSES OF THE ACTS:**

#### **BASIC CONDITIONS OF EMPLOYMENT ACT No 75 OF 1997:-**

##### **(Pg 217)**

To act as an Economic Development and Social Justice by establishing and enforcing the basic conditions of employment.

The act is applicable to all employees and employers, except members of the South African National Defence Force (SANDF), the National Intelligence Agency (NIA), the South African Secret Services and unpaid charity workers.

#### **LABOUR RELATIONS ACT:**

To act is to advance economic development and social justice, labor peace and the democratisation of the workplace by fulfilling the primary objectives of the ACT which are-

- ✓ To give effect and to regulate fundamental rights conferred by section 27 of the constitution
- ✓ To give effect to obligations incurred by the Republic as a member state of the International Labour Organisation
- ✓ To provide a framework within which employees and their trade unions, employers and employers organisations can-
  - ❖ Collectively bargain and determine wages, terms and conditions of employment and other matters of mutual interest; and
  - ❖ Formulate industrial policy; and
- ✓ To promote-
  - ❖ Orderly collective bargaining
  - ❖ Collective bargaining at sectoral level
  - ❖ Employee participation in decision the workplace; and
  - ❖ The effective resolution of labour disputes

#### **The Act exclude:**

- Members of the South African National Defence Force (SANDF)
- Members of the National Intelligence Services (NIA)
- South African Secret Services
-

### **SKILLS DEVELOPMENT ACT No 97 OF 1998:- (Pg224)**

- Develop the skills of South African workforce
- Increase the level of investment in education and training
- Use the workplace as a learning environment and provide employees with the opportunities to acquire new skills
- Provide opportunity to the new entrants to the labour market to gain work experience
- Employ persons who finds it difficult to find work

### **COMENSATION FOR OCCUPATIONAL INJURIES ACT No 130 OF 1993:- (Pg126-SG)**

- Arranges for payment of compensation to people who are injured or become ill while working, or their dependants if they die.

### **OCCUPATIONAL HEALTH AND SAFETY ACT No 85 OF 1993:- (Pg 127-SG & Pg 227)**

- To protect the safety and health of workers, ensures that no party can agree that work will be conducted in unsafe conditions.

### **EMPLOYMENT EQUITY ACT No 55 OF 1998:- (Pg231-232)**

- To achieve equity in the workplace by promoting equal opportunity and fair treatment in employment trough the elimination of unfair discrimination and the implementation of affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure equitable representation in all occupational categories and levels in the workplace.

### **UNEMPLOYMENT INSURANCE ACT No 63 OF 2001**

- To provide for payments of benefits for a limited period to people who are ready and willing to work, but are unable to obtain work for whatever reasons.

## **BROAD-BASED BLACK ECONOMIC EMPOWERMENT (BBBEE) ACT No 53 OF 2003**

- To address inequalities resulting from systematic exclusions of the majority of South Africans from meaningful participation in the economy. The BBBEE is therefore intended to restore the imbalances caused by the oppressive policies (pre-1994) that economically excluded black South Africans from actively participating in owning big businesses, and thwarted attempts by black entrepreneurs to do so.

## **PROTECTED DISCLOSURE ACT 26 OF 2000 (PDA)**

- To provide procedures whereby employees may make protected disclosure (provide information) regarding unlawful and irregular conduct by their employers and other employees without fear of reprisal. The intension of the act is to provide a climate and conditions under which employees are encouraged and safeguarded against victimisation when disclosing irregularities.

## **UNFAIR DISCRIMINATION:- (Pg233)**

EAA prohibits unfair discrimination by stating that no person may unfairly be discriminated, directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds including:

- Race
- Gender
- Pregnancy
- Marital Status
- HIV and AIDS Status
- Conscience
- Beliefs
- Political opinion
- Language
- Birth; and
- Other arbitrary ground.

### **Three Instance of fair discrimination:- (Pg233)**

- Taking of affirmative action measures consistent with the purpose of the act
- Employer may exclude or prefer any person on the basis of a genuine and inherent requirements of the job
- In terms of 2014 amendments the employer can may also justify a difference treatment on the basis that it is rational and not unfair.

### **People included in the designated groups:- (Pg232)**

- Black people (Africans, Coloured and Indians)
- Women
- People with disabilities

### **Affirmative Action Measures:- (Pg239)**

Affirmative action measures are designated to ensure that suitably qualified people from designated groups have equal employment opportunities and are equitably represented in all occupational categories and levels in the workforce of a designated employer.

### **Viewpoints of Affirmative Action:- (Pg237)**

- Those acting in higher positions do not have the right to be promoted to those positions, but must be treated fairly during the promotion process.
- Where internal applications are involved, the decision not to appoint them must comply with internal procedures and can be based on rational grounds, such as suitability, skills or promotion of representivity.
- Internal applicants may be able to challenge their non-appointment to a higher position on the basis of unfair discrimination and unfair labour practice
- EEA prohibits absolute barriers to the future or continued employment of people who are not from designated groups.
- Affirmative action is not a refuge for the mediocre or incompetence.

**BASIC CONDITIONS OF EMPLOYMENT ACT No 75 OF 1997:-**  
**(Pg 217)**

**Working time:- (Pg217-219)**

- **Ordinary hours:** maximum ordinary weekly hours are 45hrs, maximum daily hours an employee can work is 9 hours for employees who work five or fewer days and 8 hours for employees who work six days.
- **Overtime:** is by agreement between parties (employer & employee), employer can work overtime of 3 hours a day or 10 hours a week.
- **Extended ordinary daily hours of work:** an agreement may permit an employee to work up to 12 hours a day without overtime pay.
- **Meal intervals:** an employee must have a meal interval of at least 60 minutes after five hours of work, this may be reduced to 30 minutes by agreement.
- **Daily and weekly rest periods:** an employee must have daily rest periods of at least 12 hours between ending work and starting work the following day. Every employee must have rest periods of at least 36 hours consecutive hours a week.
- **Night work:** night work is performed between 18:00 to 06:00 the next day.
- **Sunday work and remuneration:** an employee who doesn't normally work on a Sunday must be paid double his/her hourly rate.
- **Public holiday:** all employees must be paid their normal wages for a public holiday that falls on a working day.
- **Emergency work:** limits on ordinary and overtime working hours and the requirements for meal intervals and rest periods do not prevent the performance of emergency work.

### **Leave:- (Pg219-221)**

- **Annual leave:** employee is entitled to three weeks fully paid annual leave every 12 months, may be calculated as one day for every 17 days worked. Annual leave accumulates 1.25 days per month for an employee who works five days and 1.5 days a month for employee who work 6 days a week.
- **Sick leave:** employee is entitled to six weeks paid sick leave for every 36 months of continuous employment. For the first six months the employee is entitled for 1 day sick leave for every 26 days worked.
- **Maternity leave:** employee is entitled to four months maternity leave without pay.
- **Family responsibility leave:** employee is entitled to three days family responsibility leave per year.

### **Payment of remuneration and deductions:- (Pg221)**

- Employer must pay the employee salary as determined by the collective agreement, bargaining council or sectoral determination.
- Payment may take place daily, weekly, fortnightly or monthly
- Employer may deduct money from employees pay if permitted to do so by law, collective agreement or court order.
- Employee may agree in writing for the deduction of debt, such as repayment of money borrowed from the employer.
- Deduction of loss or damage caused by the employee in the course of employment may only be made by written agreement with the employee after the employer has established by a fair procedure that the employee was at fault.

### **Termination of employment:- (Pg221)**

- Notice of termination must be given in writing
- During the first six month the employment contract may be terminated with one weeks notice
- Notice for first year of employment is 2weeks
- Notice for employees with more than a year is 4weeks

## **CHAPTER 6**

### **COLLECTIVE BARGAINING, CONFLICT AND NEGOTIATION**

#### **Perspectives of Collective Bargaining:- (Pg264-265)**

##### **Collective bargaining as a negotiation process:**

- Collective bargaining is merely a case of representatives of employer and employee parties engaging in the typical give-and-take behaviour that is found in all situations where parties are involved in negotiations.
- Parties begins by stating or listing its position in terms of the exchange that is sought.
- Focus is on determining the tolerance limits of the parties, thus establishing bargaining zones.
- Collective bargaining is regarded as an extension of individual negotiations.

##### **Collective bargaining: a Trade Union Activity:**

- Union become collective bargaining agent when it represents the workers and acts on their behalf.
- Collective bargaining can therefore be viewed as central to the existence and functioning of trade union
- Trade union can only bargain if there is another party which is usually the employer.

##### **Collective bargaining: a management technique:**

Collective bargaining can influence management of an organisation in the following ways;

- Collective agreements flowing from collective bargaining require the parties to follow certain rules in handling matters staff or personnel of the organisation.
- Managers have to consider the frameworks established through collective bargaining that generally curtail management prerogative.
- It is through collective bargaining that organisation and distributive justice is promoted in the world of work
- It is through collective bargaining that the employer party is compelled to have more regard for notions of fairness and social justice



### **Collective bargaining: a conflict-management mechanism**

- When it is denied that there is conflict as well as common ground the employer party will generally shy away from engaging in collective bargaining as far as possible.
- Acknowledging the simultaneous existence of party conflict and party shared interest means that the decision to manage this conflict comes naturally.
- Collective bargaining is therefore regarded as the preferred means of alleviating tension through the indirect participation of workers in respect of the decisions that relate to them.

### **Collective bargaining: a communication process**

- Collective bargaining entails episodes of collective communication, communication between the groups or intergroup communication.
- During the collective bargaining process, the group inform each other of their interests, needs and wants, as well as their attitudes and positions.
- Collective bargaining can therefore be regarded as an information exchange process, and it will thus contain problems usually associated with communication in general.
- To be effective collective bargaining is argued to be dependent on the vehicle of language.

### **Collective bargaining: a market or economic process**

- It is through collective bargaining that the price of labour is determined.
- From an economic perspective it is suggested that collective bargaining is an economic market activity, similar to buying and selling a product by negotiating the price.
- Employer party seeks maximum gain through keeping the price of labour (wage levels) lower, while the employee party seeks maximum gain through demanding higher wages.

## **APPROACHES TO COLLECTIVE BARGAINING:- (Pg266-267)**

### **Distributive Bargaining**

- Is based on the adversarial relationship between workers and management, where their goals are in direct conflict and the outcome of this approach is that one party is the winner and the other is the loser.
- It is the essence of collective bargaining that centres on issues such as wages, holidays, benefits and bonuses. (.e.g. employer seeks to give as little as possible while the union ask for much as they can)
- Negotiation tactics are usually based on emotional elements and threats and bluffing are common.

### **Integrative Bargaining**

- Occurs when negotiators employ the use of strategies, tactics and activities, where the goals are not in conflict and they focus on a problem of common concern.
- It is a joint problem solving approach, which tries to integrate the aims of opposing parties. The outcome is that both parties are winners.

#### ***Guidelines to conduct integrative bargaining:***

- ❖ It is critical for both parties to recognise and identify the problem.
- ❖ Both parties should be motivated and there should be free access to information
- ❖ There should be a climate of trust and support by both parties
- ❖ Meetings should take place as frequently as possible

### **Attitudinal bargaining**

- A process aimed at influencing the course of negotiations by changing the attitude of the other party and the nature of the encounter.
- It is an emotional, interpersonal process with the purpose of replacing hostility with friendliness, competition with cooperation and suspicion with trust.

### **Intra-organisational Bargaining**

- Involves a set of strategies, tactics and activities utilised by both parties to gain consensus among people in their own organisation as to the “what and how” of the actual collective bargaining process.
- Intra-organisational bargaining is not a bargaining approach style.
- It involves the efforts of both sets of negotiators to align the interests and expectations of their constituents with what they try to achieve at the bargaining table.