



## Introduction to Labour Law – BCEA and Contracts

Duration: 2 Days  
NQF Level: 5  
Credits: 13  
Unit Standard: 114274/11907

Target Audience: Operational managers and /or 1<sup>st</sup> Level Management such as Supervisors and Human Resource Development Practitioners

### Course Overview:

This Labour Relations course is designed to provide delegates with the knowledge and competency to deal with the day-to-day IR related matters and situations confronting them in the workplace. It will lead delegates through the required procedural and substantive aspects pertaining to disciplinary principles, and help them understand and apply the Basic Conditions of Employment Act in the workplace to ensure employees are not treated unfairly.

### This Course will enable learners to:

- Demonstrate an understanding of the purpose, application of the Basic Conditions of Employment Act.
- Describe the regulation of working time and leave as set out in the Basic Conditions of Employment Act.
- Describe the particulars of employment, remuneration and termination of employment as set out in the Basic Conditions of Employment Act.

- Demonstrate an understanding of the monitoring, enforcement and legal proceedings as set out in the Basic Conditions of Employment Act.
- Understand the essential terms and variation of the employment contract
- Identify legislation that regulates employment issues
- Understand the main aspects of the Labour Relations Act (LRA) as amended, that relate to the management of a business unit
- Explain the requirements of the LRA in respect of interviews
- Understand the main aspects applicable to labour legislation
- Name and interpret the principles relating to dismissal as contained in the Labour Relations Act
- Explain the consequences of unfair dismissal and the precedents set by the courts
- Explain the importance and purpose of a correct grievance procedure and its impact on the workplace

Learning assumed to be in place:

- Communication at NQF Level 4
- Mathematical Literacy at NQF Level 4

### SETA Assessment of Competency (Optional):

Optional competency assessment is available for this course. This module is based on outcomes based learning principles where delegates are responsible for their own learning with support available when required.

#### Topics:

#### 1. Employment Conditions:

- Contracts from the perspective of the employee
- Contracts from the perspective of the employer
- Law of Contract in a nutshell
- What is a contract?
- Basis of Contracts
- Employment Contract
- Parties to the Employment Contract
- Defining the Employee as a party to the Employment Relationship
- Application to recent labour disputes within the CCMA
- Defining the Employer as a party to the Employment Relationship
- Statutory exclusions
- Employment Conditions
- Categories of Employment
- Organisational Sources of Employment & Sources of Labour Law
- The Constitution of South Africa, Act 108 of 1996
- The Bill of Rights
- Aligned Organisational conditions of employment with legislation
- Employee Duties

- Employer Duties
- Doctrine of vicarious liability
- Organisational conditions
- Incorporated terms and conditions

## 2. The Purpose and Application of the BCEA:

- Basic Conditions of Employment
- Prohibition of employment
- Variation of the Conditions of Employment
- Employment Conditions Commission
- Sectorial Determinations
- Regulation of working time
- Leave
- Particulars of Employment
- Monitoring, Enforcement and Legal Proceedings of the BCEA
- Protection of employees against discrimination
- Legal Proceedings - Dispute Resolution
- General Provisions of the BCEA
- Codes of Good Practices
- Penalties

## 3. Drafting the Employment Contract:

- Drafting of the Employment Contract
- Statutory information
- Essentialia of the employment contract
- Express, incorporated and implied terms
- Exceptional employment conditions
- Confidentially Clauses
- Restraint of Trade
- Clear and unambiguous contractual interpretations
- Legal interpretation based on the wording of the contract
- Signatory
- Sample of an Employment Contract

## 4. Introduction to Labour Law:

- Approaches to the Labour Relationship
- Power Realities of the Labour Relationship
- Legislation

## 5. Individual Labour Law:

- The Right not to be Unfairly Dismissed
- Definition of an Employee
- Exclusions from the Labour Relations Act
- The Meaning of Dismissal
- The Fairness of the Dismissal
- Automatically Unfair Dismissals
- Other Unfair Dismissals
- Burden of Proof
- Code of Good Practice: Dismissal (Schedule 8)
- Misconduct
- Incapacity
- Incapacity: Poor Work Performance
- Incapacity: Ill Health or Injury
- Dismissals based on Operational Requirements
- Severance Pay
- Date of Dismissal
- Disputes about Unfair Dismissal
- Remedies for Unfair Dismissal
- Unfair Labour Practices

## 6. Collective Labour Law:

- Collective Bargaining
- A Duty to Bargain
- Refusal to Bargain
- Freedom of Association
- Agency Shop Agreements
- Closed Shop Agreements
- Employer's Right to join Employer's Organisations
- Organisation Rights
- Levels of Representivity
- Collective Agreements
- Legal Effect of Collective Agreements
- The Right to Strike/ Recourse to a Lock-Out
- Definition of a Strike/Lockout
- Strikes
- Lockouts
- The Concept of the "Protected Strike or Lock Out"
- Picketing
- Protest Action
- Bargaining Councils
- Statutory Councils
- Workplace Forums

## 7. Individual Contract of Employment

## 8. BCEA:

- Protective Legislation
- Application of the Act
- Dealing with Grievances
- The Grievance Procedure
- Stages in the Grievance Procedure
- Guidelines for Holding a Grievance Interview