**Legislation part 2**

**Possible exam questions**

**ANSWERS**

* 1. Compensation for Occupational Injuries and Diseases Act (COIDA)
  2. Discriminatory actions
* Employers who bribe/prevent employees from reporting the accident/injury.
* Providing false information about previous, serious accidents/occupational diseases.
* Employers who do not contribute to the Compensation fund.
* Employers who do not allow claims for injuries, discriminates against injured employees.
* Employers that take too long to process claims/delay the claiming process.
* Compensation that is set off against any debt of the person entitled to the compensation.

* 1. Impact.

**Positives/Advantages**

* Promotes safety in the workplace.
* Creates a framework for acceptable employment practices and safety regulations.
* Supply administrative guidelines/mechanisms for dealing with/processing claims.
* Eliminates time and costs spent on lengthy civil court proceedings.
* Employers are protected from financial burden should an accident occur in the workplace provided that the employer was not negligent
* Claiming processes are relatively simple.
* Makes businesses more socially responsible as they cannot just employ workers at random in dangerous working conditions.
* Workers are treated with dignity and respect as businesses view them as

valuable assets and not just as workers.

* Covers all employees at the workplace if both parties meet all the necessary safety provisions in the Act.
* Employees do not contribute towards this fund.
* Employees are compensated financially for any injury/disability resulting from performing their duties at their workplace.
* In the event of the death of an employee as a result of a work-related accident/ disease, his/her dependent(s) will receive financial support.
* Employees receive medical assistance provided there is no other medical assistance option./Cannot claim medical assistance from the fund and medical aid.
* Any compensation to an employee/the family is exempt from income tax.
* Medical expenses/Other types of compensation are paid to employees and/or their families depending on the type/severity of the injuries.
* Employers have to pay a monthly amount to the Compensation Fund depending on the number of employees/the level of risk they are exposed to.

**AND/OR**

**Negative/Disadvantages**

* Claiming processes can be time consuming.
* Procedures required by this Act may be costly as paperwork places an extra administrative burden on businesses.
* Implementation processes/procedures required by the Act may be expensive.
* Employers have to register all their workers/make annual contributions to COIDA, which may result in cash flow problems.
* Employers may be forced to pay heavy penalties if they are found guilty of negligence/not enforcing safety measures.
* Workers who are temporarily/permanently employed in foreign countries are not covered.
* Domestic/Military workers are not covered.

1. **COIDA,**

**‘The management of the company is refusing to submit the claim to the Compensation Fund as they did not register the employee with the commissioner of the Compensation Fund’.**

1. Compensation for Occupational Injuries and Diseases Act (COIDA)

**3.2** . **‘The management provided the Commissioner with false information regarded serious accidents that took place at Legend Projects. They also bribed one of their employees not to report injuries sustained while performing his/her duties.’**

1. Management control

Skills development

Ownership

Enterprise and supplier development

Socio-economic development

1. ..

5.1 **Ownership**

* Business should include black people in shareholding/partnerships/franchises.
* Exempted Micro Enterprises (EMEs) with an ownership of 50% or more of black people are promoted to level 3 of the BEE scorecard.
* More opportunities are created for black people to become owners/ entrepreneurs.
* Encourage small black investors to invest in big companies and share ownership.
* Large businesses should form joint ventures with small black owned businesses and share business risks.
* Businesses sometimes find it difficult to locate suitable black business partners/ shareholders.
* Many black people cannot afford shares in companies/contributions to partnerships.

5.2 **Social responsibility/Socio-economic development**

* Businesses should CSI focus on critical areas which can affect growth and development in the country e.g. environmental awareness/education/ housing, poverty/unemployment etc.
* They should distribute scarce CSI resources to selected beneficiaries in the community.

1. ..

6.1 **Enterprise and supplier development (ESD)**

* Business must create jobs as ESD promotes local manufacturing.
* Businesses are encouraged to invest/support black owned SMMEs.
* Contribution can be monetary, e.g. loans/investments/donations.
* Contribution can be non-monetary, e.g. consulting services/advice/entrepreneurial programmes, etc.
* Outsource services to suppliers that are BBBEE compliant.
* Identify black owned suppliers that are able to supply goods and services.
* Develop the business skills of small/black owned suppliers, e.g. sales techniques, legal advice, etc.
* Support the cash flow of small suppliers by offering them preferential terms of payment.
* Businesses should invest in/support black owned SMMEs.
* SMMEs will be encouraged to use their own business initiatives to make them

sustainable.

* Develop and implement a supplier development plan/supply chain.
* Small/Large businesses may not be able to afford enterprise development

investment/support.

* Black owned SMMEs may become too reliant on support from other businesses/ unable to take their own initiatives.
* BBBEE suppliers may be without good workmanship.
* Smaller businesses that are not BBBEE compliant lose business.
* Businesses are forced to choose from a smaller pool of suppliers.

6.2 **Management control**

* Business must ensure that transformation is implemented at all levels.
* Appoint black people in senior executive positions/to management.
* Involve black people in the decision-making processes.
* Ensure that black females are represented in management.
* Businesses score points in both management and ownership when selling more than 25 % of their shares to black investors so that some of them can become directors.
* Due to a shortage of skilled black managers/directors, some businesses find it difficult to make appointments.
* Businesses are directly penalised for not implementing this pillar.

1. .
   1. **management control**
   2. **enterprise and suppliers development**
   3. **socio-economic development/social responsibility**
   4. **skills development**
   5. **ownership**
2. **Positives/Advantages**

* Encourages businesses to address the demands for redress/equity directly.
* Provides a variety of business codes to improve employment equity.
* A good BEE rating improves the image of the business.
* Promotes enterprise development, by developing entrepreneurial skills of PDI’s.
* Businesses that comply with BBBEE regarding the pillars will be rated high on the BEE scorecard/may get government tenders/may attract other BBBEE business partners/-suppliers.
* Encourages businesses to address the demands for redress/ equity directly.
* Provides for human resources development through training and development.
* Promotes enterprise development, by developing entrepreneurial skills of designated people to start their own businesses.
* Businesses will have a good overview on how it is performing in comparison to other businesses in the rest of the country.
* By focusing on BBBEE, the business will show commitment towards the social/education/economic developments in the community/country.
* Once rated, the business will understand how to develop BBBEE strategies that will increase its BBBEE ratings on an annual basis.
* Fronting is discouraged, as it may lead to the disqualification of a business's entire scorecard/BBBEE status.
* Share prices of BBBEE compliant businesses are likely to increase as they attract more business.
* Businesses that support Small, Micro, Medium Enterprises (SMMEs), may increase their own BBBEE ratings
* Complying with BBBEE requirements gives businesses experience/exposure to be able to provide better employment opportunities/staff development.

**AND/OR**

**Negative/Disadvantages**

* Businesses that want to do business with the government must have their BEE status assessed annually.
* Processes may lead to corruption/nepotism if not monitored properly.
* Investment/Ownership issues can cause unhappiness amongst existing share-olders/owners.
* Businesses have to go through the process of having their BBBEE compliance measured/verified by an independent BEE verification agency.

1. . **NCA, The management of MFS always conducts a financial affordability assessment of each client who applies for a loan.**

9.2 Credit providers must be registered with the National Credit Regulator.

* Businesses must submit an annual compliance report to the National Credit Regulator.
* Conduct affordability assessment to ensure the consumer has the ability to meet his/her obligation.
* Conduct a credit check with a registered credit bureau and could also consult the National Credit Register.
* Credit providers must have procedures in place to comply with the provision of the Financial Intelligence Centre Act (FICA).
* Verify the identity of clients, report suspicious transactions/train staff on their obligations in terms of FICA.

1. ..
   1. National Credit Act (NCA)
   2. **Positives/Advantages**

* The whole credit process is transparent e.g. both businesses and customers know their responsibilities
* Authorised credit providers may attract more customers.
* Lower bad debts resulting in better cash flow.
* Increases cash sales as credit can only be granted to qualifying customers
* Protects businesses against non-paying consumers.
* Stamps out reckless lending and prevents businesses from bankruptcy.
* Businesses do thorough credit checks and receive up-to-date documentation from the consumer as proof that they can afford the repayment.
* Leads to more customers through credit sales as they are now protected from abuse.
* Credit bureau information is made available to businesses so that they can check the credit worthiness of consumers before granting credit.

**10.3. recklessly granting loans to clients who did not qualify for a loan.**

**The bank did not properly assess the clients’ creditworthiness]**

10.4

* The court may declare the granting of credit by the business reckless and may order consumers not to repay the credit/or part thereof to the business.
* The business may not demand payment, sue or attach the clients/consumers salaries/assets.
* The business may not charge any fee/interest/other charges under that specific credit agreement.
* The National Credit Regulator may impose a fine/penalty on the business for non-compliance.
* The business will bear all costs of removing the negative information of clients/ consumers who were blacklisted as a result of reckless lending.

1. .

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1. .
   1. **right to choose**
   2. **right to privacy and confidentiality**
   3. **right to equality in consumer market place**
   4. **right to fair value/ good quality and safety]**
2. Consumer Protection Act

13.2 **Positives/Advantages**

* Enables businesses to resolve disputes fairly through the National Consumer Commission/Consumer Court/Industrial ombudsmen
* Businesses may build a good image if they ensure that they do not violate consumer rights.
* May gain consumer loyalty, if they comply with CPA.
* Businesses may be safeguarded from dishonest competitors.
* Businesses may be protected if they are regarded as consumers
* Prevents larger businesses from undermining smaller ones.

**AND/OR**

**Negatives/Disadvantages**

* Confidential business information may become available to competitors
* They have to disclose more information about their products and processes/services
* Businesses may feel unnecessarily burdened by legal processes
* Penalties for non-compliance may be very high
* Staff need to be trained /Legal experts need to be consulted, which can increase costs
* Many business documents need to be simplified /revamped at extra cost as consumers have a right to receive contracts in simple/understandable language.
* Administration costs increase as legal contracts need to be worded in plain language /pitched at the level of the consumer
* Businesses may need insurance against claims from consumers /provisions in the Act increase risks for unforeseen claims and lawsuits
* Businesses have to replace/repair faulty items/refund money if the fault occurs within six months after purchase.
* Supply chain management in stock levels will have to change, as defective goods have to be replace within six months at the request of the consumer
* Information technology systems need to be improved as the retailer must keep more detailed records of interactions with consumers /be able to report to the National Consumer Commission.

1. ..

14.1 **Right to choose**

Consumers have the right to:

* choose suppliers and/or goods.
* shop around for the best prices.
* reject goods that are unsafe/defective for a full refund.
* cancel/renew fixed term agreements.
* request written quotations and cost estimates.

1. Consumer Protection Act

15.2 **right to fair/responsible marketing//promotion**