NATIONAL SENIOR CERTIFICATE EXAMINATION
NOVEMBER 2020

BUSINESS STUDIES

MARKING GUIDELINES

Time: 3 hours 300 marks

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SECTION A

QUESTION 1 MULTIPLE CHOICE

1.1	B ✓✓
1.2	B ✓✓
1.3	C ✓✓
1.4	B ✓✓
1.5	D ✓✓
1.6	C ✓✓
1.7	C ✓✓
1.8	C ✓✓
1.9	D ✓✓
1.10	B ✓✓
1.11	C ✓✓
1.12	C ✓✓

1.13	A ✓✓
1.14	A ✓✓
1.15	C ✓✓
1.16	A ✓✓
1.17	D ✓✓
1.18	D ✓✓
1.19	A ✓✓
1.20	B ✓✓✓
1.21	B ✓✓✓
1.22	D ✓✓✓
1.23	B ✓✓✓

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QUESTION 2 BUSINESS STUDIES TERMS

2.1	joint venture ✓✓
2.2	low cost ✓✓
2.3	financial perspective ✓✓
2.4	mission ✓✓
2.5	WPF ✓✓
2.6	code of ethics ✓✓
2.7	acid test ✓✓
2.8	TQM ✓✓
2.9	induction ✓✓
2.10	global ✓✓
2.11	differentiation ✓✓
2.12	business culture ✓✓

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QUESTION 3 CHOOSE THE CORRECT TERM

3.1	learning-and-growth ✓✓
3.2	Collaboration ✓✓
3.3	CCMA ✓✓
3.4	NEDLAC ✓✓
3.5	stretching ✓✓
3.6	recruitment ✓✓
3.7	petrol ✓✓

3.8	performance appraisal ✓✓
3.9	Organisation ✓✓
3.10	Consumer Protection Act ✓✓
3.11	higher ✓✓
3.12	autocratic ✓✓
3.13	work-to-rule ✓✓

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QUESTION 4

SECTION B

4.1 **Explain the term *corporate governance*.**

- The framework ✓ of rules ✓ and practices ✓ by which a board of directors operate. ✓
- The set of rules ✓ and the processes ✓ that are used by top management ✓ to direct and control the business. ✓

(Consider any other relevant facts that explain the term corporate governance)
(Any 2 facts × 1 mark each = 2 marks)

4.2 **Examine how the following principles of good corporate governance could be used to ensure that Engen is acting ethically:**

Transparency	Independence	Fairness
Transparency refers to decisions being taken in accordance with a set of rules ✓ and with which everybody is familiar ✓ and that these rules are understood by everybody. ✓ Transparency is of course a pre-condition for accountability, ✓ because if there is no transparency, ✓ how will it be possible to hold someone accountable for decisions taken? ✓	There is no conflict of interest ✓ and there are no unfair influences ✓ from any stakeholder ✓ that will result in a biased ✓ or unethical decision ✓ being taken in favour of a particular person ✓ or organisation. ✓ Although networking ✓ is a critical component in a person's and business's success, ✓ it may reduce the independence of decisions ✓ taken in the business if the decision maker ✓ feels he/she has an obligation ✓ towards someone they have networked with. ✓	It implies that the business will be considerate ✓ when evaluating ✓ all relevant parties' interests ✓ when decisions are taken. ✓ Of course, it should be acknowledged ✓ that life is not always fair ✓ and that it is not always feasible ✓ or realistic ✓ to act in a manner that will promote ✓ the interests of all concerned. ✓

(Consider any other relevant facts on how the given principles of good corporate governance could be used to ensure that Engen is acting ethically)
(Any [3 facts × 1 mark each = 3 marks] × 3 = 9 marks)

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4.3 **Answer the following questions about the duties of the Engen directors:**

(a) **List three possible duties/responsibilities of the Engen company directors:**

- Act with skill ✓
- Act with care ✓
- Operate in good faith ✓
- Be honest ✓
- Pre-empt risks ✓
- Put proper risk-management procedures in place ✓
- Act in the best interest of the company ✓
- Ensure integrated reporting (triple bottom line reporting) standards are adhered to and disclose relevant information. ✓

(Consider any other relevant facts)
(Any 3 facts × 1 mark each = 3 marks)

(b) **Should the directors of Engen not fulfil their duties/responsibilities, what negative consequences could this have for the company?**

- Negative brand image ✓
- Company could be accused of acting unethically ✓
- Businesses might not want to conduct business with the company any more ✓
- Financial losses due to mismanagement ✓
- Higher staff turnover ✓
- Government interventions ✓

(Consider any other relevant facts on not fulfilling these duties/ responsibilities; what could the possible negative effects be on the company?)
(Any 4 facts × 1 mark each = 4 marks)

(c) **Suggest possible strategies that could be used by Engen to ensure that the directors of the company fulfil their duties/ responsibilities.**

- Appoint an independent audit company ✓ that reviews the practice of directors (decisions). ✓
- Ensure that directors are aware of expectations ✓ by providing it to them in writing. ✓
- Directors should be independent: ✓ not a member of management ✓ and without any direct or indirect material relationship ✓ that could interfere with their judgment. ✓
- Develop an engaged board ✓ where directors ask questions and challenge management ✓ and don't just "rubber-stamp" management's recommendations. ✓
- Educate them. ✓ Give new directors an orientation to familiarise them with the business, ✓ their duties and the board's expectations; ✓ reserve time in board meetings for on-going education ✓ about the business and governance matters. ✓

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- Regularly review board mandates ✓ to assess whether directors are fulfilling their duties ✓ and undertake meaningful evaluations of their performance. ✓

(Consider any other relevant facts that could be used by Engen to ensure that the directors of the company fulfil their duties/ responsibilities.)
(Any 4 facts × 1 mark each = 4 marks)

4.4 **Which index identifies businesses listed on the JSE that focus on good corporate governance principles?**
JSE FTSE ✓✓ (2)

4.5 **Complete the flow diagram below with reference to corporate social responsibility (CSR).**

(a) **Identify FOUR of Engen's stakeholders.**

customers, ✓ shareholders, ✓ suppliers, ✓ government, ✓ employees ✓

(Any 4 × 1 mark each = 4 marks

(b) **Identify a demand that each of these stakeholders could make on Engen.**

Customers:
fair pricing ✓
quality goods ✓
Shareholders:
high returns ✓
business growth ✓
Suppliers:
payment on time ✓
abide by the terms and conditions ✓
Government
taxes are paid ✓
all laws are added and implemented ✓

(Consider any other relevant facts; demands that each of these stakeholders could make on Engen)
(Any 4 facts × 1 mark each = 4 marks)

(c) **What could Engen expect to gain from meeting the demands of these stakeholders?**

Sound brand image/Improved reputation ✓
Strengthens market position✓
Increases customer loyalty ✓
Increased competitive advantage ✓
Higher levels of trading power ✓

(Consider any other relevant facts on what Engen is expected to gain from meeting these stakeholders' demands)
(Any 3 facts × 1 mark each = 3 marks)

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4.6 **Engen will face a number of different challenges while implementing its CSR strategy. Assist Engen by answering the questions below:**

(a) **Discuss TWO challenges that Engen could face while implementing its CSR Strategy.**

- It is difficult to measure the benefits of CSR and as such it is difficult to measure if the business gains anything from CSR. ✓✓
- Many businesses feel the pressure from the communities that have been helped via a CSR programme; these communities put additional strain on them to keep on giving. If the business is not able to meet all the needs of these communities, some communities may view the business in a negative light. ✓✓
- Some people argue that not all CSR projects are sustainable and that businesses are wasting time and valuable resources on "hit-and-run" programmes. ✓✓
- CSR sometimes leads to businesses misleading stakeholders regarding their environmental practices. This is called *greenwashing*. ✓✓

(Consider any other relevant challenge that Engen might face while implementing its CSR strategy.)
(Any challenge 2 × 2 mark each = 4 marks)

(b) **List THREE creative problem-solving tools that Engen could use to assist them in solving the challenges identified in (a) above.**

- Pro's and con's chart ✓
- Decision tree ✓
- Value chain analysis ✓
- PESTLE ✓
- SWOT analysis ✓
- The Delphi technique ✓

(Consider any other creative problem-solving tool)
(Any tool 3 × 1 mark each = 3 marks)

(c) **Explain how Engen could use ONE of the tools identified in (b) above to address a challenge.**

- A pros and cons chart, listing ✓ the advantages (benefits) ✓ and disadvantages ✓ of each choice, ✓ the decision-making process ✓ becomes less subjective ✓ or influenced by emotions ✓ and personal biases. ✓ Weighting each argument ✓ against relevant criteria ✓ provides further evidence to support a particular choice. ✓
- The decision tree is a decision support tool ✓ that uses a tree-like graph ✓ or model of decisions and their possible consequences, ✓ including chance event outcomes, ✓ resource costs, ✓ and utility. ✓ It is one way to display an algorithm ✓ that only contains conditional control statements. ✓
- Value chain analysis is a way to visually analyse ✓ a company's business activities ✓ to see how the company can create a competitive advantage ✓ for itself. Value chain analysis helps a company understand how it adds value to something ✓ and subsequently how it can sell its product or service ✓ for more than

the cost of adding the value, ✓ thereby generating a profit margin. ✓

- PESTLE represents a factor in the macro environment ✓ that could potentially threaten ✓ the business or that the business could use as an opportunity ✓ to create or strengthen ✓ the competitive advantage. ✓
- SWOT analysis is a framework for identifying and analysing the internal ✓ and external ✓ factors that can have an impact ✓ on the viability ✓ of a project, product, place or person.
- The Delphi Technique refers to the systematic method ✓ used to gather anonymous opinions ✓ of the panel of experts ✓ on the problem being encountered, ✓ through the questionnaires ✓ often sent through mail. ✓ In other words, a set of opinions ✓ pertaining to a specific problem, ✓ obtained in writing usually through questionnaires. ✓

(Consider any other relevant facts on how each of the above tools could assist Engen in solving challenges.)
(Any 4 facts × 1 mark each = 4 marks)

4.7 **What is the significance of the King Reports in the South African economy?**

- The King Committee was founded in 1992 to clarify the concept of corporate governance ✓ and how it could be implemented in the South African context. ✓
- The King I Report (1994) recommends standards of conduct for companies ✓ listed on the JSE, as well as state-owned enterprises, ✓ regarding their responsibilities towards citizens in the societies within which they function. ✓
- King II was published in 2002 and it describes seven principles of good corporate governance. ✓
- King III aims to provide detail regarding the responsibilities of directors. ✓
- King IV emphasises that the board of a company is accountable ✓ to make sure the following are present in a company: an ethical culture, ✓ good performance, ✓ effective control mechanisms, ✓ as well as trust and a good reputation. ✓

(Consider any other relevant facts on the importance of the King Reports)
(Any 4 facts × 1 mark each = 4 marks)

[50]

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QUESTION 5

5.1 The marketing function at BP South Africa

5.1.1 Discuss the impact of social media on the marketing efforts of a petrol station.

- Social media gives a lot of power to consumers ✓ to voice their opinions about a particular brand. ✓
- A business needs to build a presence ✓ on social media platforms so that it can interact with customers. ✓
- This could help the business to gain insight✓ into the needs of consumers; ✓
- to respond to complaints ✓ and
- to share information, it regards as important (e.g. the withdrawal of a product). ✓
- Social media allows a business to promote its online sales, ✓ if it attracts customers to the digital communication platform✓ such as its website. ✓
- The management ✓ of the social media platform ✓ and opinions voiced there is vital, ✓ as messages ✓ and content shared on social media✓ can go viral in a matter of hours. ✓

(Consider any other relevant facts on the impact of social media on the marketing efforts of a petrol station.)

(Any 6 facts × 1 mark each = 6 marks)

5.1.2 Explain how BP South Africa or any other competing brand can use the "people policy" as part of the marketing mix to create or maintain its competitive advantage.

- Whether the business renders a specific service ✓ or a hybrid service ✓ (service combined with a physical product ✓), it is probable that people will be part of the selling equation. ✓
- The attitude, ✓ behaviour, ✓ skill, ✓ morale ✓ and motivation levels ✓ of the employees ✓ are just some of the variables that may have a noticeable effect on the service provided. ✓
- As the employee is the face of the business, ✓ the business must make sure that there are sufficient control mechanisms ✓ to ensure that contract employees will protect ✓ and promote ✓ the brand ✓ and the reputation of the business. ✓
- The quality of the after-sales service ✓ is vital to secure customer loyalty ✓ to the store / product. ✓

(Consider any other relevant facts on how BP South Africa can use the "people policy" as part of the marketing mix to create or maintain its competitive advantage)

(Any 4 facts × 1 mark each = 4 marks)

5.1.3 **Discuss the advantages of franchising for a petrol station franchisor.**

- The franchisor can expand the original business concept, ✓
- without having to spend large amounts of capital. ✓
- The franchisor gains capital ✓ when the franchise is sold. ✓
- The franchisor knows that the franchisees who have invested their own capital ✓ when they purchased the franchise will in all probability be motivated ✓ to make a success of the business. ✓
- The franchisor does not have to concern themselves with staffing issues, ✓ because each entrepreneur running the franchise is responsible for their own staff recruitment. ✓

(Consider any other relevant facts on the possible advantages of franchising from the point of view of a petrol station franchisor)
(Any 4 facts × 1 mark each = 4 marks)

5.1.4 **Refer to the buyer-stimulus response model and describe the economic factors that could influence the buying decision of BP customers.**

- Customers will consider their level of disposable income, ✓ i.e. how much money they have to spend on petrol or the items in the fuel forecourt. ✓
- The rate of inflation, ✓ i.e. how a general increase ✓ in the price of goods and services ✓ will impact on the value of the money they have. ✓
- Customers will be impacted if they are unemployed / retrenched ✓ or have their monthly wages / salaries decreased. ✓
- If there is a general decline in the economy of the country ✓ consumers tend to be more cautious in their spending. ✓
- As the price of petrol is fixed by the government ✓ changes in the petrol price have limited impact on the purchase of petrol ✓ but they do impact negatively on the spending levels in the fuel forecourt. ✓

(Consider any other relevant facts on what economic factors could influence the buying decision of BP customers)
(Any 4 facts × 1 mark each = 4 marks)

5.1.5 **Describe the criteria that the Marketing Department of BP could use when evaluating the effectiveness of their advertisements.**

- Does the advert have the potential ✓ to "stop the customer from what he / she is doing ✓ and pay attention to the advert's content?" ✓
- When an advert is engaging, ✓ the customer's interest may be stirred ✓ to respond to what is on offer. ✓
- Is the advertisement credible? ✓
- Are the claims made in the advert believable ✓ and can the facts be proven? ✓
- Does the advert create a lasting impression? ✓
- Does the advert have the potential to be remembered? ✓
- What is the possibility of the advert being remembered in a future survey? ✓
- Does the advert prompt the consumer to take action? ✓

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- Does the advert promote all the features and benefits of the product or service ✓ that are important to the customer? ✓
- Is there a possibility of making the message✓ more relevant to the customer? ✓
- Is the advert part of a series of advertisements that comprise an advertising campaign? ✓
- Is there integration with other promotional messages ✓ that add value to the brand of the business? ✓
- How well does the advert promote ✓ the key brand attributes? ✓

(Consider any other relevant facts on the possible criteria that the Marketing Department of BP could use when evaluating the effectiveness of their advertisements)
(Any 4 facts × 1 mark each = 4 marks)

5.2 Performance management at BP South Africa

5.2.1 Discuss how BP South Africa could use the solvency ratio as a measure of quality of performance.

- The solvency ratio looks at the ratio ✓ between total assets ✓ and total liabilities ✓ in a business.
- In order for a business to be solvent, ✓ assets must be greater than liabilities. ✓
- If liabilities are greater than assets the business is insolvent ✓ and will no longer be able to continue with business operations. ✓

(Consider any other relevant facts on how BP South Africa could use the solvency ratio as a measure of quality of performance)
(Any 4 facts × 1 mark each = 4 marks)

5.2.2 Give possible suggestions on how the Production Department of BP South Africa could improve their quality of performance.

- Production is the combination of the factors of production ✓ (natural resources, labour, capital and entrepreneurial skill) needed to provide the right **product** ✓ at the right **place** ✓ and **time** ✓ in the **quantity** ✓ demanded and at the **price** the consumer is prepared to pay for the product. ✓
- It is important to keep manufacturing cost as low as possible, ✓ while maintaining quality and standards. ✓
- Continuous product design is important to satisfy the needs of consumers. ✓
- **Automation** is becoming more and more important in the production process and also in other functions in the business. ✓
- Automation refers to a situation where activities that were performed by hand ✓ are now performed by machines. ✓ As with any decision that may impact on the profitability of the business, ✓ both the advantages ✓ and disadvantages ✓ should be considered before a decision is made regarding automation. ✓
- **Quality control** ✓ is important during all operations in the business, ✓ but especially in the production phase, ✓ because management wants to guarantee ✓ that a good-quality product is supplied to retailers and customers. ✓

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- The quality of the product will be influenced by the standard of the raw materials, ✓ the calibre of labour, ✓ reliable machines ✓ and stable working conditions. ✓

(Consider any other relevant suggestions on how the Production Department of BP South Africa could improve their quality of performance)
(Any 6 facts × 1 mark each = 6 marks)

5.2.3 **Evaluate the effectiveness of BP employees using self-evaluation as a means of improving their quality of performance.**

- Employees must be able to judge for themselves ✓ if they have reached their potential on the job. ✓
- They must be able to evaluate if their work done ✓ is of an acceptable standard. ✓
- They must have an understanding of what motivates them to work harder. ✓
- There needs to be a form of introspection. ✓
- It needs to be said that no one technique should be used in isolation ✓ but rather in combination with other quality of performance techniques ✓ (group performance assessments ✓ / benchmarking, ✓ etc…) so as to give credibility to the outcome. ✓
- Self-evaluation can at times be one sided ✓ employees may not have the bigger picture ✓ or may not be prepared to accept shortcomings in their performance. ✓

(Consider any other relevant points on the effectiveness of BP employees using self-evaluation as a means of improving their quality of performance)
(Any 4 facts × 1 mark each = 4 marks)

5.3 Conflict management at BP South Africa

5.3.1 **Describe possible outcomes of dysfunctional conflict.**

- A climate of mistrust ✓ that has a negative impact on teamwork ✓ and cooperation; ✓
- blaming each other, ✓ backstabbing ✓ and gossip; ✓
- higher levels of stress and anxiety ✓ which contribute to lower levels of job satisfaction; ✓
- lower morale; ✓
- increased staff turnover ✓ which will result in higher costs; ✓
- waste of time and resources; ✓
- violence ✓

(Consider any other relevant points on the possible outcomes of dysfunctional conflict)
(Any 7 facts × 1 mark each = 7 marks)

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5.3.2 **Discuss how BP could resolve various conflict situations in the business.**

- When an **accommodating** approach is followed, ✓ the person will be cooperative ✓ and not assertive. ✓
- He/she will probably neglect his/her own interests ✓ and even sacrifice some of his/her beliefs ✓ when yielding to the other's point of view. ✓
- A person opting to **avoid** the conflict situation ignores the conflict ✓ by withdrawing from the situation ✓
- or postpones dealing with it till a later stage ✓ or avoids the situation by getting someone else to deal with the conflict situation. ✓
- If it is not an important issue, this approach may very well work, almost like the saying "pick your battles carefully". ✓
- When **collaborating/cooperating**, ✓ the parties try to work with each other ✓ in a situation that fully satisfies everybody involved. ✓
- When collaborating, the parties attempt to find a solution✓ that fully satisfies everyone's concerns. ✓
- This will usually take time, ✓ as the underlying differences must be uncovered and addressed. ✓
- **Competing** means an individual is not prepared to give in, ✓ instead he/she will do everything in his/her power to win. ✓
- People will follow this approach if the conflict✓ is over a principle or value that cannot be relinquished. ✓
- **Compromising** means the parties are trying to find an acceptable solution to the mutual ✓ (although sometimes only partial) satisfaction of both parties by seeking a common middle ground. ✓

(Consider any other relevant points on how BP could resolve conflict in its organisation)
(Any 7 facts × 1 mark each = 7 marks)

[50 marks]

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QUESTION 6

6.1 6.1.1 **Identify THREE recruitment sources that Sasol uses from the extract above.**

- career website ✓
- official Sasol LinkedIn page ✓
- authorised recruitment personnel ✓

(3 recruitment sources × 1 mark each = 3 marks)

6.1.2 **What advantages will the use of external recruitment have for Sasol's Human Capital Department?**

- New ideas ✓ and new skills ✓ could be brought into the business.
- It may give the business an opportunity to employ more Affirmative Action ✓ candidates to meet Employment Equity targets. ✓
- When an employee is head hunted, ✓ he/she may provide insight into the operations of competitors. ✓
- No infighting occurs among employees for the position. ✓

(Consider any other relevant advantages the use of external recruitment will hold for Sasol's Human Capital Department when applicants apply for vacancies)

(Any 4 facts × 1 mark each = 4 marks)

6.1.3 **There is a vacancy for a manager in a Sasol forecourt. Describe the criteria that you would use to select an appropriate candidate for the vacancy.**

- Skill appropriate to the job requirement, ✓ i.e. ability to work on a computer / computer software. ✓
- Administration skills, ✓ i.e. storage and retrieval of the relevant complaints to the hotline. ✓
- The ability to give feedback to management on the various cases that have been reported. ✓
- A public relations flair for keeping the confidentiality ✓ of the complaint and the company in mind.
- The candidate must have integrity ✓ as in many cases they will be dealing with issues of a sensitive nature. ✓
- The ability to work under pressure ✓ to meet deadlines. ✓

(Consider any other relevant criteria that you could use to select an appropriate candidate for the vacancy)

(Any 4 facts × 1 mark each = 4 marks)

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6.1.4 **The extract shows that Sasol is committed to ethical business practices. Use evidence from the extract and any other examples to describe how Sasol could demonstrate this commitment.**

The extract makes reference to the following ethical practices:

- Non-acceptance of unsolicited offers of employment; ✓
- No advance payments from candidates; ✓
- Applicants must apply through official websites; ✓
- Personal banking details must not be sent by e-mail; ✓
- Any suspicion of fraud can be reported on the fraud hot-line or to law enforcement authorities. ✓

Candidates can also make reference to other ethical practices at Sasol, e.g. non-acceptance of bribes; ✓ no tolerance of sexual harassment; ✓ confidentiality of employee personal records; ✓ an appropriate code of ethics ✓ and code of conduct. ✓

(Consider any other relevant evidence from the extract and other examples, describe how Sasol shows commitment to ethics and professionalism)

(Any 5 facts × 1 mark each = 5 marks)

6.2 **Describe how the following managerial competencies could assist Sasol in maintaining a competitive advantage in the fuel industry. Give at least two examples to support each answer.**

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6.2.1 **Organisational awareness**

- No organisation operates in a vacuum. ✓
- Organisational awareness requires management to be aware of **internal** ✓ **and external** factors that might have an impact on the success of the business. ✓

INTERNAL:

- The manager should understand the capabilities (strengths) ✓ and constraints (weaknesses) ✓ of the business.
- For management (at all levels) to be successful, ✓ it is important for them to have an understanding ✓ of what happens in the entire business, ✓ because the actions ✓ of the different functions or departments in the business have an impact on one another (interdependent). ✓
- The manager should have empathy ✓ and consider the pressures that different departments experience, ✓ and should aim to accommodate ✓ people where possible to ensure the entire business (rather than just that one department) is successful. ✓
- Management must understand the organisational culture of the business. ✓
- If there is something within the culture that is not desirable, ✓ a proactive plan ✓ has to be implemented to change ✓ the organisational culture to something that is in line ✓ with the vision and mission of the business. ✓ This is important to enhance the overall functioning of the business. ✓

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EXTERNAL:

- Management should demonstrate an understanding of the opportunities ✓ and/or threats ✓ that the business may face when viewed in the context of the external environment.
- When one thinks of the external environment, it should be borne in mind that aspects such as national ✓ and international trends ✓ may have an impact on the business, ✓ but that the business could also affect events in the external environment by taking a stand for or against something. ✓

(Consider any other relevant description on how organisational awareness assists Sasol in maintaining a competitive advantage in the fuel industry.)
(Any 5 facts × 1 mark each = 5 marks)
(Candidates must give at least 2 examples × 1 mark each for substantiation)

6.2.2 **Customer service orientation**

- In a successful business, customers ✓ and their needs ✓ are the primary focus areas ✓ and should be considered in all business decisions. ✓
- It is crucial that the manager listens ✓ and responds ✓ to customers' questions, ✓ problems✓ and feedback, ✓ as it is an important way for the business to give the customer what he/she expects ✓ and requires from the business. ✓
- A productive customer relationship ✓ based on trust ✓ and credibility ✓ will ensure that existing customers ✓ keep coming back to buy from the business. ✓

(Consider any other relevant description on how customer service orientation assists Sasol in maintaining a competitive advantage in the fuel industry.)
(Any 5 facts × 1 mark each = 5 marks)
(Candidates must give at least 2 examples × 1 mark each for substantiation)

6.3 **Describe the factors that Sasol would consider when completing a competitor analysis as part of formulating its marketing strategy.**

- The competitor analysis gives the business an overall picture of all the competitors in the market. ✓
- It is critical that the business evaluates ✓ the competitors' strengths ✓ and weaknesses ✓ in order to determine the effect ✓ these could have on the performance of the business ✓ and then adapt the marketing efforts accordingly. ✓
- If we consider Porter's Five Forces Model, a competitor analysis may include:
  - level of rivalry in the market ✓
  - threat of new entrants in the market ✓
  - substitute products in the market ✓ (indirect competition ✓)

(Consider any other relevant factors that Sasol would consider when completing a competitor analysis as part of formulating its marketing strategy)
(Any 5 facts × 1 mark each = 5 marks)

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6.4 **Discuss how planning as a management task could help a garage and its forecourt to achieve the organisation's goals. Give at least two examples to support your answer.**

- Every business needs to plan to ensure actions ✓ are geared towards the desired outcome. ✓
- The plan should be drawn up with the aim of achieving the goals and objectives of the business, ✓ but the plan should be flexible ✓ and adaptable ✓ according to circumstances.
- The following are possible steps to be taken during the planning process: understand ✓ and define ✓ the problem, get all the relevant information, ✓ analyse the information✓ and consider all possible eventualities. ✓
- Decide on a plan of action ✓ but consider alternative plans (contingency plans), ✓ implement the plan carefully ✓ and follow up to ensure the plan is successful; ✓ if not, implement corrective action. ✓
- Planning in the business takes place on different management levels:
  - Top management ✓ is responsible for the overall, ✓ long-term ✓ strategic ✓ business plan, including the vision, ✓ mission, ✓ objectives ✓ and strategies for the overall business. ✓
  - Middle management ✓ formulates tactical plans, ✓ which involve the acquisition of resources ✓ needed by the departments that they control ✓ namely, the financial department, marketing department, production department, human capital department, etc. ✓
  - Middle management is responsible for medium-term planning ✓ and has to ensure that lower levels of management ✓ are guided to align their daily planning with that of middle management. ✓
  - Lower management ✓ is in charge of planning work schedules ✓ and programs ✓ on a daily basis. ✓

(Consider any other relevant discussion on how the effective use of planning as a management task can effectively achieve organisational goals)

(Any 5 facts × 1 mark each = 5 marks)

(Candidates must give at least 2 examples x 1 mark each for substantiation)

6.5 **Evaluate the effectiveness of Sasol having fixed property as part of their investment portfolio.**

- Property is moderate ✓ to high ✓ risk. ✓
- Debt ✓ in the form of a mortgage bond ✓ can help investors acquire an asset ✓ and a return on this asset. ✓
- Much of the risk depends on the location of the property ✓ and the political ✓ and economic ✓ environment.
- If interest rates are increased ✓ it becomes increasingly difficult for the owner of the property with a mortgage bond to repay the loan ✓ and the risk increases. ✓
- Similarly high rates of inflation ✓ decrease ✓ the available disposable income ✓ making it more difficult ✓ to maintain mortgage instalments. ✓

(Consider any other relevant evaluation on the effectiveness of Sasol having fixed property as part of their investment portfolio)

(Any 5 facts × 1 mark each = 5 marks)

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6.6 **Explain why investing in collectibles could be a high-risk investment.**

- When collectables are chosen, it is important to have a good understanding ✓ of the market ✓ where these items are bought and sold. ✓
- To deal in collectables requires a high level of knowledge and expertise. ✓
- Any damage ✓ to something like a stamp collection, artwork or antiques will drastically diminish the value. ✓
- If the article is truly a collectable, ✓ the value of the article will increase over time (provided there is no damage). ✓
- The disadvantage of this type of investment is that there is no monthly source ✓ of income for the investor. ✓

(Consider any other relevant point on why investing in collectibles can be a high risk)

(Any 4 facts × 1 mark each = 4 marks)

6.7 **"Insurance is the answer to risk management".**
Comment on whether it is a good policy for Sasol to have insurance. Give examples to support your answer.

Candidates can give the advantages and disadvantages of insurance

- The insured can transfer ✓ some of the risks to the insurance company ✓ which then provides indemnification ✓ against a large number of risks.
- Peace of mind, ✓ not having to worry about uncertainties. ✓
- In some cases the business cannot buy a fixed asset, ✓ unless there is insurance to cover the risk ✓ for the bank while it finances the asset. ✓
- Cash-back bonuses ✓ from some insurers can be claimed if no insurance claims are made. ✓
- It may be cheaper ✓ to pay for insurance rather than paying the expense if the event takes place. ✓ A vehicle gets stolen after one month – only one month's insurance premium has been paid. ✓ Cheaper than having to use own funds to purchase a new asset. ✓
- Insurance can be expensive ✓ if the insured never claims. ✓
- The insured has to check ✓ that the insurance covers all the circumstances / events ✓ for which it is needed to ensure complete ✓ peace of mind.
- Insurers often look for every excuse possible not to pay the claim. ✓ This is a result of the high level of fraudulent claims made on insurance contracts. ✓

(Consider any other relevant fact on the validity of the statement in the context of risk management at a Sasol garage)

(Any 5 facts × 1 mark each = 5 marks)

(Candidates must give at least 2 examples for substantiation)

[50]

150 marks

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SECTION C

QUESTION 7

Fact marks are allocated as per the rubric for:

- ***naming***
- ***explaining/justifying/motivating***
- ***examples***
- ***strategies to solve problems***
- ***current affairs***
- ***10 additional facts – must add value to the discussion/argument(s)***

The following laws require a detailed discussion regarding the purpose of each law and specifically the **implications** of each when referring to the process of redress and equity:

- Constitution of South Africa
- The Labour Relations Act
- The Employment Equity Act
- Broad-Based Black Economic Empowerment
- The Skills Development Act
- The Basic Conditions of Employment Act

Constitution of the Republic of South Africa (No. 108 of 1996) as amended:
The South African Constitution was promulgated on 18 December 1996 and came into effect on 4 February 1997. It is the fundamental law of South Africa and no other law or contract may supersede (override) the Constitution.

The principle of human rights is one of the core values of the Constitution and the Preamble to the Constitution clearly states the intention of establishing "a society based on democratic values, social justice and fundamental human rights". This helps to redress inequalities of the past when the gross abuse of the human rights of certain groups of people in South Africa occurred.

This Bill of Rights is covered in Chapter 5 of the Constitution. The issues detailed form the cornerstone of our democracy and include aspects such as:

- People have the right to just administrative action which gives citizens the right to challenge government regarding the way in which they are treated if they feel it is unfair. This has been and will continue to be tested when citizens take matters to the Constitutional Court. Being able to do this is something that should give citizens peace of mind, knowing they have the right to challenge the government on certain issues, if need be.
- People have the right to citizenship and freedom of movement in and out of the country.
- People have political rights which mean they can form a political party, run for office and support any political party by voting for that party in elections. This is a sign of a true democracy as this occurs every time there is an election and new political parties are registered.
- People have the right to housing, food and water, health care and social security. The question, nevertheless, arises whether the current government is honouring its promises in this regard or, at the very least, if there is evidence of these rights being achieved quickly enough.

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- Children under the age of 18 have special rights such as protection from abuse and exploitation.
- People have a right to basic education, but unfortunately too often we hear about schools being mismanaged, non-delivery of textbooks to schools, and teachers striking.
- People may not be unfairly discriminated against on the grounds of gender, race, religion, marital status, disability, pregnancy, language, culture, age, etc. This refers to the concept of *inclusivity*. However, something like Affirmative Action is seen as *fair* discrimination due to the *limitation clause*.
- People may do whatever work they choose, because citizens are entitled to freedom of trade, occupation and profession.
- People have Freedom of Association which means workers may belong to the Trade Union of their choice and may even strike if the correct procedures are followed. Employers also have the right to belong to employer organisations to further their aims.
- People have the right to assemble peacefully, demonstrate and protest, provided the correct procedures are followed.
- Citizens have the right to live in an environment that is not harmful to their health or well-being. The Constitution also guarantees future generations' rights by demanding that people become more aware of environmental issues, that conservation is promoted, that businesses focus on sustainable development and that technology is used in such a manner that, where possible, pollution is prevented.

Labour Relations Act (No. 66 of 1995) as amended (LRA)

The Labour Relations Act's main aims are to:

- enforce the fundamental rights relating to labour issues that are guaranteed in the Constitution;
- promote economic development, labour peace, social justice and democracy in the workplace by providing a framework for collective bargaining to solve labour disputes.

The LRA applies to all employers, employers' organisations, employees and trade unions, but does not apply to members of the National Defence Force, National Intelligence Agency and the South African Secret Service.

The implications of the Labour Relations Act:

Positive:

- The LRA ensures that international labour standards are applied in the South African labour context.
- The LRA gives clear guidelines on how labour disputes must be resolved.

Negative:

- Trade unions have a lot of power in South Africa and it appears that they sometimes forget that they are meant to protect the rights of employees and not become involved in politics and other issues under the pretext of implementing the LRA.

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The importance of discipline, disciplinary procedures and grievance procedures in the workplace

- The purpose of discipline in the workplace (or anywhere else) is not to punish or embarrass people, but rather to ensure the correct behaviour by all parties, i.e. that employees are adhering to the company rules and, if this is not the case, to correct this behaviour immediately, but also to prevent it from happening in future.
- Not all infringements are equally serious. Some are minor infringements, while others may be so serious that it may endanger the person or other people's lives. When the manager decides on the most appropriate form of discipline, it is usually best to implement the "softest" disciplinary measure appropriate for that specific situation. If this does not correct the problem, more serious disciplinary action may be taken. This is known as a progressive approach to discipline. From least serious to most serious, the following steps may be taken to correct behaviour:
  - Coaching and counselling where the manager will determine what can be done to ensure appropriate behaviour. A plan of action follows (with support from the manager) to ensure the employee complies with what is expected of him/her. The employee needs to understand that if behaviour does not change, more serious steps may be instigated.
  - Correction refers to a more formal approach to intervention and may include verbal warnings, written warnings, suspension, demotion or even dismissal. There is a common misconception that the manager always has to issue three warnings before an employee may be dismissed. This is not true. When the problem is not serious, the manager may use numerous (informal and formal) verbal warnings, before a written warning is given. If, however, it is a serious problem, the consequence may be immediate dismissal, provided the correct procedures (discussed later) were followed.
- It is important for employers to have a Disciplinary Policy and a Grievance Procedure in place. The purpose of these two documents is to ensure employees meet the required work standards and that they act in a manner that promotes improved job performance. The difference between the two documents is:
  - A Disciplinary Policy provides guidelines and informs the employee what is acceptable behaviour and what the expected standards are that should be met, as well as what consequences will ensue if behaviour is unacceptable.
  - A Grievance Procedure allows the employee the opportunity to resolve a grievance (problem) related to his/her employment by communicating with the employer about the problems via a predetermined procedure and structure. The employee will usually take his/her grievance to the supervisor. If it is not resolved, it will be taken to the line manager (functional or departmental manager). Should the problem still persist, it is usually referred to the human capital manager. The CCMA, Labour Court and Labour Appeal Court are the external bodies that can be consulted if the grievance is not resolved internally.

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Substantive and procedural fairness

The Labour Relations Act is very clear on the procedure that needs to be followed, as well as the three acceptable reasons to be implemented by an employer dismissing an employee. The three reasons that constitute substantive fairness when an employee is dismissed are:

- dismissal due to incapacity (inability to meet the required standards)
- dismissal based on misconduct (not adhering to the rules)
- dismissal due to operational reasons (retrenching workers)

Each of these reasons will be discussed, followed by an examination of procedural fairness. It is important to keep in mind that regardless of the reason for an employee's dismissal, the correct procedure has to be followed otherwise the dismissal may be seen as unfair.

Dismissal due to incapacity (inability to meet the required standards)

Dismissal due to incapacity can be sub-divided into two categories:

- Poor work performance:
  - Examples may include incomplete or inaccurate work, work of a poor standard, carelessness regarding output or failure to meet deadlines.
  - The employer has to prove that the required work standard was fair, that the employee was aware of the required standard and that he/she was given sufficient support (e.g. training) to improve performance.
  - Demotion or a transfer to another job should be considered before an employee is dismissed (if this can solve the problem).
- Poor health preventing the employee from meeting the required standards:
  - The employer should try to modify or adapt the employee's tasks, if possible, to enable the employee to meet the required standards.
  - Extended unpaid leave should be considered if this will enable the employee to recover and thereby return to perform his/her duties to the required standard.
  - A transfer to another more suitable position should be considered before dismissal based on ill-health occurs.

Dismissal based on misconduct (not adhering to the rules)

- The Disciplinary Code of the business should stipulate which offences are seen as more serious than others and what the disciplinary action associated with each offence will be. An employee may be dismissed for a less serious offence if all other methods to correct the behaviour have failed. Some offences, however, are serious enough that they may warrant immediate dismissal.
- Forms of misconduct may include, but are not limited to:
  - abuse or unauthorised possession of company property
  - actions that are a threat to the safety of the employee or others
  - being under the influence of alcohol or any illegal substance
  - bribery and corruption
  - failure to adhere to rules
  - fighting
  - illegal industrial action
- Before the employee is disciplined for misconduct, it should be established that:
  - The employee contravened a rule or standard in the workplace.
  - The rule or work standard that was contravened, was a valid rule or reasonable standard.
  - The employee was aware or could reasonably be expected to have been aware of the rule or standard.
  - The rule or standard is consistently applied by the employer.

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  - The appropriate sanction for the contravention of the rule or standard is implemented (verbal warning, written warning or dismissal – whichever is appropriate).

Procedural fairness for incapacity and/or misconduct:

- The complaint should be put in writing and fully investigated, with the investigation process recorded in writing. This may include taking statements from the complainant and all witnesses.
- The accused should be advised of the full nature and details of the charge(s) against him/her and given full access to all written statements collected.
- The date, time and venue of the disciplinary hearing should be given to the accused in writing.
- The accused should be given reasonable time in which to prepare and to appoint his representative for the disciplinary hearing, but it is important to not delay the disciplinary hearing unnecessarily.
- The accused is entitled to have an interpreter if he/she is not comfortable with the language in which the disciplinary hearing will be held.
- The complainant presents his/her case first by giving evidence and calling witnesses to testify. The accused is given an opportunity to cross-examine witnesses.
- The accused then presents his/her defence and calls his/her own witnesses. The complainant will have the opportunity to cross-examine the accused's witnesses.
- The chairperson of the disciplinary hearing decides on the guilt or innocence based on the evidence presented by both sides. At this stage no aggravating or mitigating circumstances are considered – only the facts relating to the disciplinary issue.
- The chairperson decides on the verdict. If the accused is "not guilty", this is confirmed in writing and given to the accused, and the matter is closed. If the verdict is one of "guilty", then the chairperson considers aggravating or mitigating circumstances and decides on a fair sanction (punishment).
  - These aggravating or mitigating circumstances may include the age of the employee, employee's state of health, length of service, level of education, position in the company, remorse shown or any other valid point.
- The chairperson will advise the accused of his/her rights to appeal and to take the matter to the CCMA.

Dismissal due to operational reasons (retrenching workers)

Section 189 of the LRA prescribes the procedures to be followed when retrenchments are implemented. Retrenchments may be implemented for a number of reasons such as:

- the restructuring of the department or business
- if the business has economic reasons such as cost reduction or to increase profits
- technological reasons such as new machines necessitating fewer employees, and making some employees redundant
- the business is closing

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In order for retrenchments to be procedurally fair, the employer must provide evidence to justify:

- possible steps that were taken in order to prevent or minimise the retrenchments
- the reasons for retrenchments and whether alternatives were considered
- how much consultation with the affected employees and their representatives took place
- criteria used to identify employees for retrenchment
- notice periods given to employees affected by the retrenchment process
- offers of severance pay
- whether offers of re-employment may occur at a later stage

Unfair treatment and unfair dismissal

If there is a dispute about any unfair labour practice, it may be taken to the CCMA. The CCMA will try to resolve the situation through conciliation, mediation and if needed, arbitration.

When one looks at what constitutes unfair treatment, the following types of actions are included:

- unfair treatment regarding the allocation of benefits
- unreasonably long probationary periods
- unfair discrimination based on race, gender, language, religion, culture, sexual orientation, age, disability, political orientation and family responsibilities. There are, however, times when it would be fair to discriminate based on some of these factors (refer to the discussion of the limitation clause earlier). Examples may include:
  - affirmative action to redress imbalances of the past; justifying discrimination when promotions are made or for training purposes
  - if the job requires a specific orientation such as a Christian church looking for a minister – it would be bizarre to expect the church to employ a non-Christian person in this position.
- unfair suspension or unfairly subjecting an employee to any form of disciplinary action
- failing to re-employ an employee when such agreement was reached
- treating an employee unfairly after whistle-blowing (whistle-blowing is when the employee discloses unlawful conduct in the workplace)

Unfair dismissal includes any of the following:

- The employee is dismissed because he/she participated in the activities of a trade union or workplace forum.
- The employee is dismissed when he/she is taking part in a protected strike.
- The employee is dismissed due to pregnancy or any reason related to her pregnancy or the employer refuses to allow an employee to return to her job after her maternity leave.
- The employer ends a contract of employment without appropriate notice to the employee.
- The employee is dismissed due to arbitrary factors such as race, age (except on retirement), gender, sexual orientation, religion and/or family responsibility.
- The employer makes the working environment impossible for the employee to tolerate and thus the employer "forces" the employee to resign. This is known as *constructive dismissal*.

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Remedies for unfair dismissal may include:
- re-employment
- compensation (the maximum compensation will be the equivalent of 24 months' salary)
- combination of the two

Re-employment will not be an option if:
- The dismissal was substantively fair but only procedurally unfair.
- The employee does not want to be re-employed.
- The continued employment relationship will be intolerable for either party.
- It is impractical for the employer to re-employ the worker.

Industrial relations, collective bargaining and Industrial action

A. ***Industrial relations*** can be defined as the relationship that exists between the employer (management), the employee (often represented by trade unions) and other institutions such as government. The aim is to establish industrial peace by ensuring high worker morale and a functional workplace where productivity is high.

B. ***Collective bargaining*** refers to the process that takes place when the employer and trade unions (representing the employees) negotiate the terms of employment. Issues that may be addressed during these negotiations include:
- employment and working conditions
- salaries and wages, overtime pay and other benefits such as health care and retirement
- working hours
- issues relating to annual leave and sick leave

C. ***Industrial action*** refers to steps that workers take to enforce their demands if the collective bargaining process fails to meet their demands. This industrial action may take the form of strikes, go-slows, work-to-rule or picketing which employees use to air their grievances and enforce their demands.

According to The Labour Relations Act, employees have the Constitutional right to strike, provided they follow the correct procedures. Employers on the other hand have the Constitutional right to implement a lock-out as recourse to the strike.

Different types of strikes and other industrial action:
- A strike can be defined as two or more employees that refuse to work based on a shared, work-related purpose.
- A go-slow takes place when workers still work, but they decrease their rate of productivity.
- Work-to-rule is a form of industrial action where workers do no more or no less than the minimum requirements described by the rules of a workplace.
- Intermittent strikes take place when employees stop and start the same strike, often extending it over a period of time.
- When employees refuse to work any overtime, it is a form of industrial action known as overtime bans.

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- Picketing refers to a situation where striking workers demonstrate in a public place *outside* of the workplace. Only a registered trade union may organise a picket, and it must meet the requirements as stipulated in Code of Good Practice on Picketing issued by NEDLAC.
- Secondary (or sympathy) strike action takes place when employees strike in support of another strike. In order for the secondary strike to be protected (see below), the original strike has to be protected, i.e. the correct procedure has been followed.

Some of the most frequent reasons for industrial action include:

- remuneration issues
- to have a trade union recognised
- if the employer made unilateral changes to working conditions

Protected vs. unprotected strikes:

In order for a strike to be considered a protected strike, certain procedures have to be followed:

- Before the strike can take place, the issue over which workers want to strike, must be referred to the CCMA, a bargaining or a statutory council. .
- The CCMA or council has 30 days during which they must aim to resolve the issue.
- If it is not possible to resolve the issue, a certificate must be issued stating this.
- In the private sector there is a 48 hour notice period to inform the employer that workers are planning to strike. If the employer is the State, the notice period is 7 days.

The benefits from the employee's perspective if it is a protected strike:

- During a protected strike, the employees have the security of knowing they cannot be dismissed. If, however, they engage in misconduct during the strike, they may be dismissed for the misconduct, but not for participation in the strike.
- Employers cannot get a court interdict to stop the strike.
- Employers are not allowed to seek damages because of loss of production during the strike.
- Employers have to continue to provide food and accommodation for employees if it is part of the employees' remuneration. Once the strike has ended, employers may go to the Labour Court as a means to reclaim the money spent on accommodation and food during the strike.

When is a strike not protected?

- If the correct procedure has not been followed
- If there is a collective agreement in place that states workers may not strike over a particular issue, and the matter must first be referred to the Labour Court.
- If workers are engaged in an essential service, the strike will not be protected. Essential services include:
  - The South African Police Service
  - A service, when disrupted, may endanger the health or safety of a part of the population (e.g. doctors or nurses)
  - Parliament

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What is a lock-out?
- The employer prevents employees from entering the workplace in an attempt to force them to accept the employer's demands.
- During a protected lockout (the employer followed the correct procedure), the employer does not have to pay wages and employees cannot sue the employer for loss of income.

Dispute-resolution mechanisms:
The Labour Relations Act makes provision for different dispute-resolution mechanisms to be created in order to prevent and solve dysfunctional conflict in the workplace.

A. Collective bargaining and bargaining structures

Collective bargaining can be defined as the process where the employer (management) and employees (represented by a trade union) discuss issues of concern in order to reconcile their conflicting goals and reach an agreement on these topics.

Management is prepared to engage in the process of collective bargaining, because it enables negotiation with one set of people and not individual employees. The employees are prepared to allow the trade union to represent them, because it gives them enhanced bargaining-power.

When an agreement is reached, the terms of the settlement will be recorded in a collective agreement and all parties sign the agreement and are then bound by that agreement.

The Labour Relations Act also makes provision for *centralised collective bargaining*. This is when employers in a particular sector join forces to negotiate with one (or more) unions representing the employees in that sector. For example, a group of car manufacturers may get together to negotiate with unions representing employees in the car manufacturing industry.

Under section 28 of the LRA, bargaining councils may be formed by employers' organisations and trade unions in a particular sector. NEDLAC (see below) must agree that there is enough representation of both employers and employees on the proposed bargaining council before it can be established. This level of representation is important, because agreements reached within the bargaining council will apply to all parties in that sector, regardless of whether they were part of the agreement or not. Nevertheless, if an employer in the sector feels the agreement is to his disadvantage, he may apply to be exempted from the agreement.

The functions of a bargaining council are to:
- negotiate and enforce collective agreements on issues such as wages, benefits and grievance procedures
- design and submit proposals for policies and laws that have an impact on that sector
- prevent and resolve labour disputes in that sector / industry
- establish training and education schemes in that industry

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A statutory council is similar to a Bargaining council, BUT agreements reached at the statutory council cannot be extended to other parties in the sector / industry without the approval of the Minister of Labour. The minimum requirement for the establishment of a statutory council is 30% representation of employees and employers operating in that sector.

Workplace forums may only be established if the business employs 100 employees or more. It is a mechanism whereby employees and employers can consult with one another and make joint decisions on certain issues (except wages). Some of the issues that the employer and WPF may negotiate on include:

- health and safety measures
- new work methods resulting in the possibility of restructuring
- retrenchment of workers
- job grading
- criteria for merits and bonuses
- education and training

If there is a dispute between the WPF and the employer that cannot be settled, the dispute is referred to the CCMA (in writing) for a settlement.

B. Commission for Conciliation, Mediation and Arbitration (CCMA)

The CCMA is an independent dispute-resolution body that is not run or controlled by any political party, trade union or business, but it is funded by NEDLAC (see below).

The aim of the CCMA is to settle disputes between employers and employees to prevent labour unrest, e.g. strikes. The process followed by the CCMA is one of conciliation, followed by mediation and if needed, arbitration.

- Conciliation refers to the process where the commissioner meets with the employer and employee in order to explore ways to settle the dispute by mutual agreement.
- If conciliation fails, mediation will follow. The commissioner then makes a recommendation on how he/she thinks the dispute should be settled. If the parties are not willing to follow the recommendation, the process proceeds to arbitration.
- During arbitration the commissioner will issue an award (make a decision) that is legally binding on both parties.
- If one of the parties feels there is a flaw in the arbitration process, the party has 6 weeks to refer the matter to the Labour Court.

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C. Trade unions

A trade union can be defined as a group of workers organising themselves in a collective organisation with the aim to engage in collective bargaining with the employer and/or employer organisations.

The South African Constitution recognises trade unions and gives employees the right to join a trade union. The Labour Relations Act allows registered trade unions to be part of the collective bargaining process and to fulfil the following roles and functions:

- ensure industrial peace by influencing policies and decisions regarding labour issues
- address issues such as conditions of service, safety in the workplace, remuneration (wages) and workplace restructuring (including possible retrenchments)
- ensure fair treatment of workers (setting realistic working standards and representing employees in disciplinary issues)

The functions, as discussed above, appear very simplistic. If the underlined point only is examined more fully, namely: the setting of reasonable and realistic work standards, it immediately becomes clear how important the active involvement of the trade unions is to this process, as well as the huge responsibility that rests on their shoulders.

- Work standards give employees an understanding of performance expectations. Once workers are aware of expectations, it will lead to better performance, more profits and potentially better wages. A win-win situation for all.
- At the same time workers will have an understanding of how failure to meet the required standards will be dealt with (disciplinary action).

The role of trade unions, (as outlined above) is carried out by participating with employers in the collective bargaining process. If it is not possible to reach an agreement on an issue via collective bargaining – conciliation, mediation and arbitration follow. As a last resort, the LRA allows trade unions to organise strikes (after the correct procedures have been followed) in an effort to force the employer to negotiate a settlement for the dispute.

Three of the biggest trade union bodies in South Africa are the Congress of South African Trade Unions (Cosatu), the Federation of Unions of South Africa (Fedusa), and the National Council of Trade Unions (Nactu).

D. *NEDLAC (National Economic Development and Labour Council)*

NEDLAC is an important role player in South Africa when it comes to the relationship between business, trade unions, government and community groups. The different parties engage in social dialogue with NEDLAC, aiming to:

- make economic decision-making more inclusive
- promote the goals of social equity and economic growth

Section 77 of the Labour Relations Act empowers NEDLAC to intervene as a dispute-resolution body when there are disagreements between business, trade unions and government regarding issues of socio-economic policy.

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Employment Equity (EE) Act (No. 55 of 1998):

The purpose of the Act:

When one looks at The Employment Equity Act, it seems to discriminate against certain groups of people. This is indeed the case with the justification being that the Act is designed to redress the inequalities of the past. This is done through affirmative action (AA).

Affirmative action means designated groups (blacks, coloureds, Indians, Chinese, all females and disabled people) who were previously marginalised in the workplace, now get preferential treatment to ensure there is equal representation in all job categories and at all levels of the workplace. When looking at issues such as training, promotion and remuneration, any inequality due to past practices has to be rectified. Although some people may argue that this is illegal because it is "discrimination against some of the existing workforce", we need to refer to the limitation clause (previously discussed) in this regard.

The implications of the Employment Equity Act:

Positive:

- imbalances and unfairness of the past are corrected
- a more diverse workforce with better representation from all people is ensured

Negative:

- One of the disadvantages of EE is that it places an additional workload on the business. Employers have to conduct an analysis to identify equity issues and then submit this in their EE report. There are EE inspections to ensure EE reports are accurate and this again places an additional burden on staff during this time of the inspection. Huge fines can be imposed if certain requirements are not met.
- People who do not necessarily have the skills to work in a certain position are sometimes promoted to get the right proportion of designated people. This may hamper productivity.
- The brain drain experienced by South Africa is a disadvantage of EE. Some of the well-qualified white males feel that due to AA and EE there are limited job opportunities for them and they consequently leave the country to look for better opportunities elsewhere. As a result of this brain drain, many skills have been lost to the country.

Broad-Based Black Economic Empowerment Act (No. 53 of 2003) (BBBEE):

The purpose of the act:

BBBEE aims to redress imbalances of the past by bringing the black majority of the country into the economic mainstream. It is suggested that this is achieved by focusing on the following **five elements** (pillars) of the BBBEE scorecard (implementation date October 2013 – previously SEVEN pillars):

- The percentage of black owners in a business (as measured by their voting rights in the business) has to be increased to a minimum of 40% ***black ownership*** to get maximum BBBEE points.
- The aim is to empower more black people to become active at ***management level in the businesses***. This is achieved via employment equity targets.

- Encourage the implementation of mentorships, learnerships and internships to promote human capital development of black people and to keep emphasising ***skills development*** as part of BBBEE.
- To ensure businesses use ***black-owned business as their suppliers,*** and in turn, to help these suppliers to develop where possible.
- To establish ***socio-economic development*** by ensuring black people have access to funds to become economically empowered and to own their own businesses.

<u>The implications of the BBBEE Act:</u>
Positive:
- A large portion of the black middle class has experienced dramatically improved standards of living, owing to promotion by businesses to meet BBBEE targets.
- Real opportunities have occurred for black people to become part of the economy, either through ownership or in management positions.
- Skills development for black people has increased.

Negative:
- The majority of black people in the country have not benefited from BBBEE and still live in abject poverty.
- Companies find it difficult to make changes to their management structures as the number of black people with qualifications and the required experience is still limited. It takes years to gain the experience to function at top management levels.
- There are still companies that try to manipulate the system through "window-dressing" in order to achieve maximum BBBEE points to secure government contracts.

Skills Development Act (No. 97 of 1998):
The Skills Development Act (passed in 1998) and the Skills Development Levies Act (passed in 1999) were the starting points to formulate a National Skills Development Strategy that could help to ensure South Africa develops the skills needed for economic growth, social development and sustainable job creation.

The minister of labour used representatives from business, organised labour, government and other relevant bodies to establish the National Skills Authority that was tasked to help with the drafting and implementation of the National Skills Development Strategy and to ensure SETAs (Sector Education and Training Authorities) help businesses to make skills development a reality.

<u>The aims of the Skills Development Act:</u>
- to help South Africans to improve their qualifications and skills and to ensure economic development is achieved and people have better standards of living
- to introduce Learnerships and skills programmes to boost vocational learning (i.e. the workplace becomes a place of learning)
- to promote entrepreneurship through training and improved skills levels
- to improve employment opportunities for unemployed people by giving them skills needed to find or create their own employment
- to encourage employees to improve their skill levels by becoming involved in training

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Skills development in South Africa is funded via a levy that businesses pay. This levy is equal to 1% of the total payroll. When training takes place, some of this money can be claimed back to cover the training expenses.

It is important to note that the mandatory grant, (the money that the business automatically gets back for submitting the Workplace Skills Plan (WSP) and Annual Training Report (ATR), has been reduced from 50% to 20% of what was paid as the skills levy. In order to get the rest of the money, new policy dictates the business must implement essential training, unlike the training previously implemented which often was of little value to that sector. The changes were introduced in 2013.

SETAs (Sector Education and Training Authorities):
SETAs work out Sector Skills Plans (i.e. what skills are needed in that sector?) and implement the plan to make sure the skills are developed. They do this by:

- watching over education and training in the sector
- approving Workplace Skills Plans (WSP) and Annual Training Reports (ATR) from employers in that sector
- making sure learnerships are established in the sector
- making funds available to employers and trainers to do the training required to make the Sector Skills Plan a reality

A Workplace Skills Plan is a plan developed by the business, based on the needs identified in the Skills Gap Analysis. This plan is then submitted to the SETA which uses all the WSPs in the sector to identify scarce skills and critical skills and then assist employers to train people to develop these (and other) skills.

An Annual Training Report explains which of the training plans in the previous year's WSP were implemented through training and development in the business. Records of all training programs must be available for the SETA to verify that training took place should the need arise.

The date by which the WSP and ATR have to be submitted to the SETA has been changed from 30 June to 30 April.

<u>The implications of the Skills Development and Skills Development Levy Act</u>:
Positive:

- Funding for training is obtained from skills development levies, regardless of what the business plans to spend on training. Skills are thus not compromised when training budgets are reduced.
- 20% of the skills development levy may be claimed back simply by submitting a WSP and ATR. This encourages businesses to plan and implement training programs.

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Negative:

- The Sector Education and Training Authorities (SETAs) overseeing training in the different sectors are not always effective and the result is that there are large sums of money that should be spent on training that simply sit in some of the SETAs' bank accounts.
- The amount that may be claimed back for submitting the WSP and ATR has been reduced from 50% to 20% with effect from 2013. This makes it more difficult for businesses to claim back their money, because not just any training will qualify to warrant the additional 30% reduction.

The Basic Conditions of Employment Act (No. 75 of 1997) (BCEA)

Purpose of the Act:

The BCEA is aimed at ensuring that employees are treated in a fair manner in the workplace and through this, the BCEA promotes economic development. The BCEA protects workers against unfair labour practices. No employer may include anything in an employment contract not allowed under the BCEA. Even if the worker signs the contract, that condition of employment will not be valid in terms of the law.

Issues covered in the Act:

- Working hours and overtime: No employer may require a worker to work more than 45 hours in any week. This means nine hours a day if the employee has a five-day week or eight hours per day if the employee works more than five days in a week. After this, additional hours worked are seen as overtime. There are, however, exceptions to this specified in the BCEA, e.g. if the employee is senior management. Employees should be paid 1½ times their salary and/ or the employer has to give the employee time off if he/she works overtime.
- Deductions: An employer may not deduct any money from the employee's remuneration unless the employee agrees to it in writing or unless it is a legal requirement that the deduction should be made, e.g. tax.
- Public holidays: If the employer wants the employee to work on a public holiday, the remuneration is double pay or the employee has to get time off to compensate him/her for working on a public holiday.
- Leave
  - Annual leave: An employee is entitled to 21 consecutive days' annual leave every annual leave cycle.
  - Sick leave: An employee is entitled to 30 days sick leave in a three year cycle if he/she works a five-day week or 36 days if he/she works a six-day week.
  - Maternity leave: An employee is entitled to at least four consecutive months' maternity leave, but it does not have to be paid leave. The employer can give unpaid leave or fully paid leave or any combination of the two. If the employee does not receive her full salary, she may claim from UIF (Unemployment Insurance Fund).
  - Family responsibility leave: This only applies to an employee who has been employed for longer than four months and works at least four days a week for the employer. The employee is entitled to three days' paid leave per year and may take this when a child is born, when a child is sick or when an immediate family member passes away.

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- Notice periods to terminate employment: The minimum notice period that applies is one week if the worker has been employed for less than a month. Two weeks are required if he/she has worked for the business for less than a year. A notice period of one month applies if a year's service has been completed.
- The BCEA makes provision for Employment Conditions Commissions to be established. The commission will investigate working conditions and wages in a particular sector. A recommendation is made to the minister of labour on, for example, minimum wages in that sector. If the minister of labour decides to accept the recommendation it becomes a law in the form of a sectorial agreement.

<u>The impact / implications of the BCEA</u>:
Positive:
- It protects vulnerable employees such as part-time, farm and domestic workers.
- It provides mechanisms to set minimum wages for farm and domestic workers (sectorial agreements).
- It prevents child labour.
- It protects employees against unreasonably long working hours, especially in areas such as the transport and security industries.
- It ensures employees are treated in a fair manner.

Negative:
- Some employers and employees may view contracts as a negative restriction.
- Employees are legally restricted to maximum working hours and therefore cannot work longer, even if they chose to.
- Processes and procedures of the Act can be very costly to business.
- Businesses face penalty fees if they do not comply.
- Businesses cannot offer cheap labour.
- Some businesses regard the BCEA as unimportant and unnecessarily burdensome.
- Businesses must appoint a specialist who is familiar with the legislation and this can be costly.
- The fines for non-compliance can be severe depending on the type of infringement.
- The minimum wages for the different sectors have cost implications for businesses.
- If a business does not comply with the BCEA, it could be held liable by the CCMA and/or Labour Court.

50 marks

Total: 300 marks

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