



**BOTILMS**

# Introduction: Human Resources and Labour Relations

Welcome to the eLearning programme on Human Resources and Labour Relations in South Africa. This course is designed to provide a comprehensive understanding of the key principles and practices of Human Resources (HR) and the critical labour laws in South Africa. As South Africa has a rich and complex history that has shaped its current labour legislation, this training will guide you through the essential aspects of employment law, workers' rights, and employer responsibilities. By the end of this course, you will have gained valuable insights into effectively managing HR processes while ensuring compliance with South African labour legislation. Let's embark on this informative journey together.

To begin, click the first lesson below, or the Start eLearning button above.



**Introduction to Human Resources**



**Labour Legislation and Its Implementation**



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Introduction: Completed

# Introduction to Human Resources



## People Are at the Heart of Every Business

A business is only as good as its people. Imagine delivering medical care without doctors, building roads without construction workers, or launching a new software product without developers. You wouldn't get very far, would you?

People are at the heart of every business. They're your company's most valuable resource. That's why it's so important that you invest in the happiness, development, and success of your people. But you don't need just anybody to do the job—you need the right people, with the right skill sets. You need people who share the same mission and core values as your business to thrive.

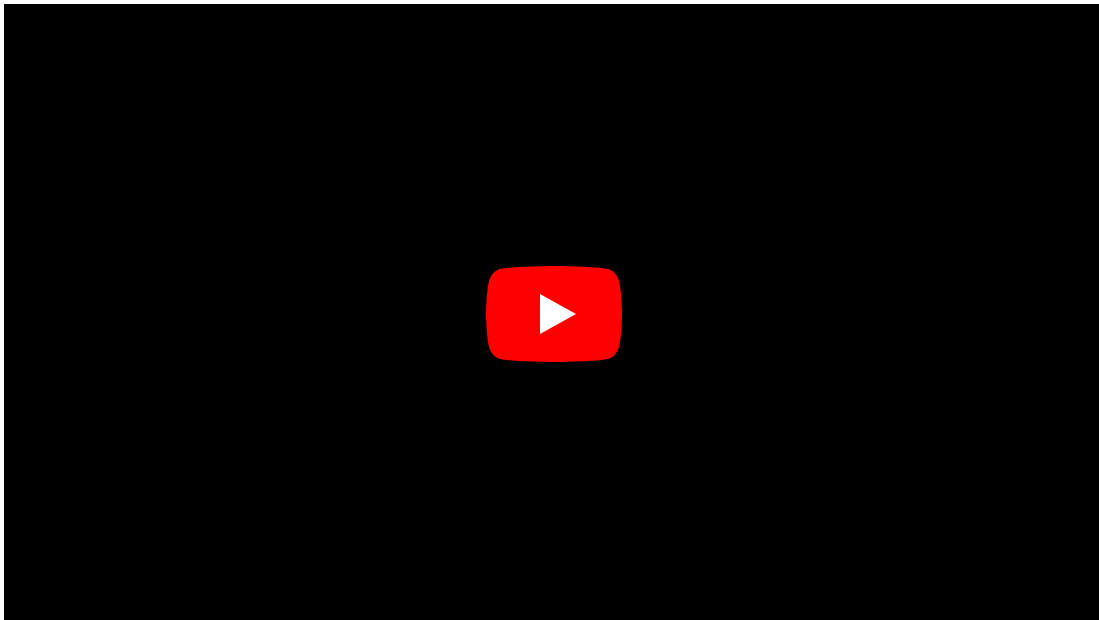
We call the people, or employees, who make up a workforce its human resources. A **human resources (HR) department** helps a company reach their organisational objectives through their workforce.

This lesson offers an introduction to the primary role and functions of the HR department. You'll learn what human resources management means, what HR professionals do, and why effective HR operations are essential to every business's success.

“When people are financially invested, they want a return. When people are emotionally invested, they want to contribute.”

Simon Sinek

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## **Introduction to Human Resources**

Watch this video to learn the importance of effective human resources management as well as the five critical functions of the HR department.

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## **What Is HR and Why Is It Important?**

HR refers to a company's human resources department or personnel. The goal of human resources management is to hire, retain, and support the skilled, motivated, and diverse workforce that a company needs to succeed.

Effective HR management can improve a company's performance in the following ways:

- Attracting, recruiting, and retaining the right talent
- Clearly communicating employee roles, responsibilities, and expectations
- Shaping and enforcing the company's culture and values
- Increasing employee motivation and commitment
- Providing training and development
- Matching individual employee goals to internal career opportunities
- Helping to resolve conflicts and improve relationships between staff members or between staff and the organisation
- Maintaining a safe and constructive work environment where all employees can flourish

The HR function is invaluable to any organisation because it removes obstacles or distractions that may deter employees from doing their best work. HR professionals create new policies and systems that motivate or reward employees—and they create new opportunities for employee training, development, and engagement. HR professionals are stewards of the company's culture and values. They seek exceptional talent who will propel the company forward—not just fill the job vacancy.



The core premise of HR management is simple: An empowered workforce is not only happier and more connected, but they're also more productive and motivated, and ultimately, they do better work. Want to reach your company goals? Then start by investing in your company's people.

## 5 Critical Functions of the HR Department

The HR department empowers the company by empowering its people. It does this in five critical ways. Click on each function below to expand it and learn more:

### Staffing

First is staffing. The HR department supports the outreach, recruiting, and hiring of new employees. This process includes creating job descriptions and determining the right channels to reach the right people about job opportunities. It also might include managing or facilitating the application, interview, and selection process for new hires. In addition to hiring, the HR department also handles disciplinary action and firing.

The HR department does a lot of behind-the-scenes work. Staffing comes with a host of paperwork and administrative duties that HR staff handle as well, including:

- New-hire paperwork—such as tax forms, direct deposit forms, employment agreements, emergency contact information, and nondisclosure agreements
- Setting new hires up with the tools, technology, or equipment they need
- Giving new hires access to company resources



## **Compensation and Benefits** —

HR also makes sure that employees get paid and have access to employee benefits. The HR department also handles reimbursements, keeps track of paid sick or vacation days, and sets pay scales.

HR staff might explore new benefits or special incentives the business can offer employees—such as wellness programs, public transportation benefits, and more.



## **Training and Development** —

Another important function of the HR department is supporting employee training and development. HR works to equip employees with the skills and knowledge to be successful in their respective roles. HR staff may provide training opportunities, such as conferences or internal educational programs, to help employees stay up to date in their fields. They might also explore developing mentorship programs, offering tuition reimbursement, creating online training courses, facilitating workshops, or other creative ways to continue to engage employees and enhance their skills.



## **Safety and Labour Laws** —

Next is workplace safety and labour laws. HR protects the safety, health, and rights of the staff. A chief duty of the HR department is to ensure compliance with labour laws, defend employee rights, and prevent discrimination and harassment in the workplace.

HR must be familiar with, and enforce, a wide array of local, state, and federal laws. These laws may deal with issues ranging from minimum wage and overtime provisions to worker unions, workplace safety, and discrimination.

While companies must handle staff lawfully, enforcing safety and labour laws is just as important for creating an environment in which all employees can thrive. Employees won't be able to do their best work if they're working in hazardous conditions, experiencing sexual harassment, or being treated unfairly.



## **Internal Relations** —

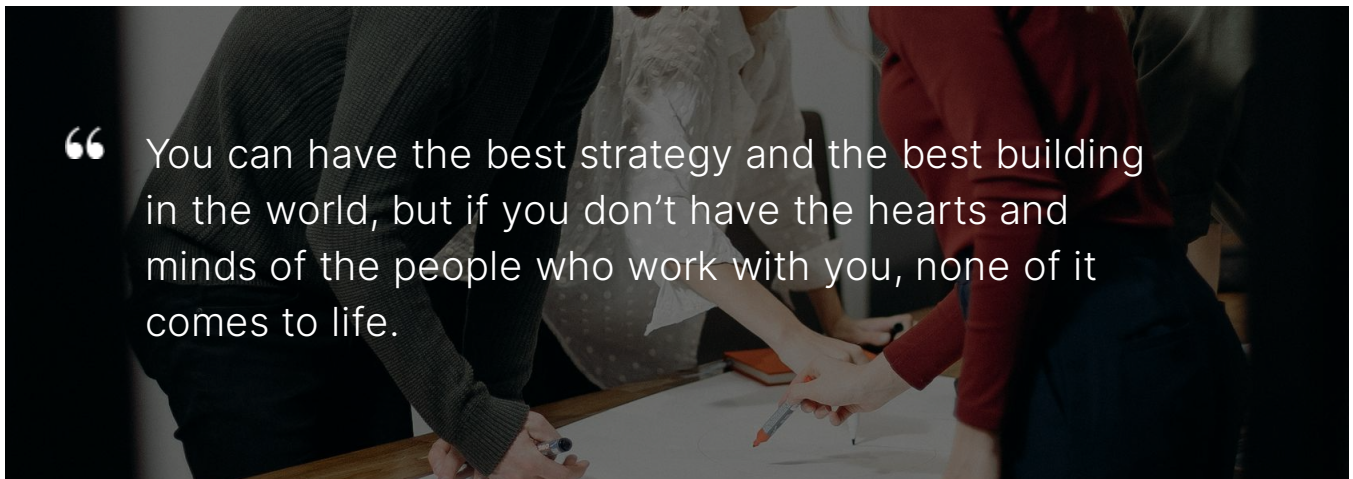
Finally, HR might mediate disputes between management and employees or between coworkers. HR professionals also may equip employees with strategies for handling conflict and navigating difficult situations themselves.

HR professionals are not counsellors or confidants for employees. However, they can connect staff with appropriate resources or serve as an unbiased third party for conflict resolution on issues interfering with an employee's work.



This list is not exhaustive, and the functions of HR departments shift depending on a company's size, structure, and goals. However, the main takeaway is that HR professionals serve as consultants between a company and its staff. They are consultants to the business on legal matters as well as on how to increase employee engagement and job satisfaction. And they are consultants to the staff about job expectations, navigating obstacles, and how to grow or achieve their professional goals within the company.

“ You can have the best strategy and the best building in the world, but if you don't have the hearts and minds of the people who work with you, none of it comes to life.



## Check Your Understanding

Consider the following question to check your understanding of the role of HR professionals.

Which of the following options does not describe a function of the HR department or HR professionals?

---

- Serve as a sounding board for complaints about coworkers or managers.
- Explain and set up staff with their employee benefits.
- Create job descriptions and qualifications for new positions.
- Provide onboarding training for new hires.
- Enforce company sexual harassment and anti-discrimination policies.

**SUBMIT**

**CONTINUE**

## Summary

The human resources (HR) department supports the strategic goals of the company by recruiting the right people and empowering them with what they need to succeed. HR professionals:

- Strive to hire the best people for each role
- Administer pay and benefits
- Support the continuous training and development of staff
- Protect workers' safety, rights, and wellness
- Mediate disputes, handle disciplinary action, and work to improve internal relations

Never underestimate the impact of employee morale, job satisfaction, and engagement on productivity or work quality. A company's success is largely driven by the people behind it.



**Get to know your people.** The role of an HR professional starts with people. Get to know your employees' skill sets, strengths, goals, backgrounds, challenges, and preferences. Create personal connections with staff and learn about their interests and what they care about. The more in tune you are with your company's staff, the more likely you are to understand and support their needs.



Complete the content above before moving on.

# Labour Legislation and Its Implementation



In any business, adherence to labour legislation is not just a good practice—it's the law. The relationship between employers and employees is governed by two key acts: the **Labour Relations Act, 1995 (Act 66 of 1995)** and the **Basic Conditions of Employment Act, 1997 (Act 75 of 1997)**, both of which have undergone amendments.

As part of these labour-related regulations (including the **Employment Equity Act** and the **Basic Conditions of Employment Act**), employers are obligated to display a summary of these acts within the workplace. You can obtain these summaries from local Departments of Labour or the Government Printer in Pretoria.

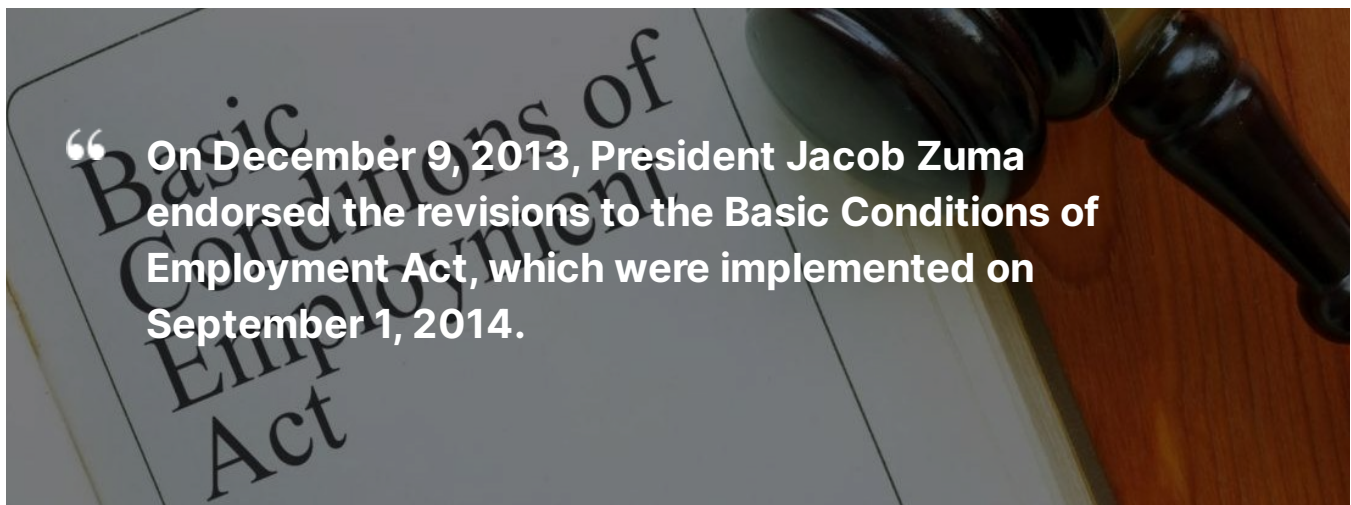
Additionally, don't overlook the **Skills Development Act**, which includes the **Skills Development Levies Act**. Familiarising yourself with these provisions is essential for effective business management.

## Basic Conditions of Employment Act – (Act No 75 of 1997)

The **objective** of this legislation is twofold: first, to **promote economic development and social justice**, and second, to **implement and oversee fair labour practices** as outlined in section 23(l) of the Constitution. Additionally, it aims to fulfil the Republic's obligations as a member of the International Labour Organisation.

The **Basic Conditions of Employment Act (BCEA)** falls within the framework of statutes governing labour relations. Its primary purpose is to **establish minimum employment conditions** applicable to all workers. Consequently, employment contracts cannot include terms less favourable than those stipulated in the BCEA. Furthermore, while Bargaining Council Agreements may modify specific provisions of the Act, they cannot deviate from its overall intent.

It is important to note that the BCEA does not cover certain categories of employees. These exceptions include individuals employed by the National Defence Force, the National Intelligence Agency, the South African Secret Service, and the South African National Academy of Intelligence. Additionally, unpaid volunteers working for charitable organisations fall outside the Act's scope.



## **Approved Amendments to the Basic Conditions of Employment Act**

On December 9, 2013, President Jacob Zuma endorsed the revisions to the Basic Conditions of Employment Act, which were implemented on September 1, 2014.

**The revised Basic Conditions of Employment Act is summarised as follows:**

The Act of 1997 is amended to replace certain provisions; it forbids employers from demanding employees to make specific payments to secure employment or to buy goods, services, or products. It also prohibits anyone from allowing or requiring a child under 15 years of age to work. It is an offence for anyone to allow or require a child to perform any work or provide any services that jeopardise the child's well-being. The Act allows the Minister (of Labour) to publish a sectoral determination for employees and employers not covered by any other sectoral determination. It allows the Director-General to apply to the Labour Court for an employer to adhere to a written commitment by the employer. It provides for a compliance order, removes certain obsolete provisions, grants the Labour Court exclusive jurisdiction over certain matters, provides for specific offences and penalties, increases the penalties for certain offences, and deals with related matters.

1

**Broadening of “Serve” Definition** The definition of “serve” has been expanded to include service by electronic mail or any prescribed method, in addition to the previously allowed methods of registered post, telegram, fax, or hand delivery.

2

**Employer Conduct Restrictions** Going forward, employers are prohibited from:

- Requiring or accepting payment from an employee or potential employee in relation to their employment or service provision.
- Requiring an employee or potential employee to purchase any goods, products, or services from the employer or any business or person nominated by the employer. However, the right to freely agree with another person to the supply of any goods, products, or services and the deduction from the employee's remuneration is not completely limited. It may still be agreed in an employment contract or

collective agreement that an employee is required to participate in a scheme where specific products and services can be purchased under certain conditions.

3

**Child Labour Prohibition** The prohibition of work performed by children under the age of 15, or under the normal school-leaving age, or for dangerous work has been reaffirmed with only linguistic adjustments.

4


**Establishment of a Comprehensive Sectoral Determination** With the addition of subsection 8, the Minister of Labour now has the power to publish a Sectoral Determination broad enough to include any employer and employee not covered by any other Sectoral Determination (including any Bargaining Council Main Collective Agreement). This creates the possibility to establish minimum wages and other minimum conditions of employment, which could negatively impact the freedom of trade and other constitutional rights of employers, potentially negatively affecting job creation.

5

**Expanded Method to Determine Minimum Wage** Minimum wages can now be adjusted by a Sectoral Determination as well as minimum percentage increases. Before the amendments, the Basic Conditions of Employment Act only provided for specific tariffs/wages.

6

**Right to Set a Threshold for Organisational Rights** Under the Amendment Act, the Minister may determine a percentage for any trade union or two or more trade unions acting jointly, which will provide for the right to organizational rights outlined in Section 12 (trade union access to the workplace) and Section 13 (deductions of trade union membership subscriptions). Once the percentage has been established, it will eliminate years of uncertainty and unnecessary CCMA / Labour Court disputes regarding these rights, but it will also limit an employer's right in this regard.



7

### **Removal of the Obligation to Attempt to Obtain an Undertaking**

It is no longer a requirement for Inspectors of the Department of Labour to attempt to obtain an undertaking (from the employer), whereby the employer undertakes to comply with specific legal requirements they failed to comply with, before a compliance order can be issued. Furthermore, the right to make representations against a compliance order has been removed.

8

**Penalties and Fines** The imprisonment term for child labour violations has been doubled (from three to six years), and fines for violating the Basic Conditions of Employment Act have been tripled.

It should be emphasised that the Basic Conditions of Employment Act is binding, non-negotiable legislation for all employers and employees. All aspects of this Act form the proverbial “safety net” for all industries/sectors for which no more specific legislation (as in Sectoral Determination or Bargaining Council Agreements) exists.



“ A healthy relationship between employers and trade unions is crucial to the country’s future. We agree with the view that progressive labour legislation, allowing strong unions to carry out centralised bargaining, will help to solve many important issues. The question of a living wage, job security and industrial restructuring must...

## **Labour Relations Act- (Act No. 66 of 1995)**

The Labour Relations Act aims to promote economic growth, social fairness, workplace harmony, and worker participation in decision-making. Its main objectives include implementing and regulating rights granted by Section 27 of the Constitution and ensuring that South Africa fulfils its obligations as a member state of the International Labour Organisation (ILO). The Act establishes a framework for employees, employers, and trade unions to engage in collective negotiations regarding wages, terms, and conditions of employment.

### **Key points about the Act:**

- 1 Trade Union and Employers' Associations Registration:** The Act provides for the registration of trade unions and employers' associations.
- 2 Centralised Negotiating Bodies:** These bodies, previously known as industrial councils and now called bargaining councils, facilitate negotiations.
- 3 Dispute Resolution Procedures:** The Act outlines procedures for legal strikes, lockouts, and resolution of unfair labour practice disputes.
- 4 1995 Replaces 1956:** The Labour Relations Act of 1995 replaced the earlier 1956 version.
- 5 Overall Purpose:** The legislation aims to advance "economic development, social justice, labour peace, and democratisation of the workplace."

In situations where there is a conflict between the provisions of the Labour Relations Act and any other Act (except the Constitution), priority is given to the provisions of the Labour Relations Act. Specifically, the Labour Relations Act automatically supersedes the Basic Conditions of Employment Act (BCEA). This is due to the exclusion of the Labour Relations Act and "any matter related thereunder" from the BCEA. Consequently, some bargaining council agreements may contain conditions that are less favourable than those outlined in the Basic Conditions of Employment Act.

## **Labour Relations Act – Sectoral Determination 5 (for Learnerships)**

This sectoral determination was established by the former Minister of Labour, Mr. Mdladlana, to define employment conditions and rates of allowances for learners in South Africa. The determination applies to any employer who hires a learner that has

completed a learnership but was not employed by the hosting employer during the learnership.

**Key provisions of this determination include:**

- **Allowance Payment:** Employers must pay learners an allowance in South African Rands, either daily, weekly, or monthly. Payment can be made in cash, by check, or directly into the learner's bank account.
- **Maternity Leave:** Learners are entitled to at least four consecutive months of maternity leave, during which they do not receive their allowance.
- **Family Responsibility Leave:** Learners who have worked for more than four months and at least four days a week are eligible for family responsibility leave.
- **Written Contract:** Employers must provide learners with a written contract between the employer and the learner.
- **Termination of Employment:** Employment can only be terminated upon completion of the learnership or if the learner is fairly dismissed.
- **Certificate of Service:** Upon termination of service, learners receive a certificate stating their employment commencement and completion dates, as well as details of the training received and responsibilities during the employment period.

## **Amendments to the Labour Relations Act (2014)**

Effective January 1, 2015, the Labour Relations Act governs the rights and responsibilities of employers, employees, trade unions, and employers' organisations in South Africa. Here are the key amendments:

## Step 1

# Extension of Trade Union Rights for Sufficiently Represented Unions

Previously, trade unions that were sufficiently represented in the workplace had limited rights. However, recent amendments have expanded their privileges. Here are the key changes:

### 1. Application to CCMA:

- A sufficiently represented trade union can now apply to the CCMA (Commission for Conciliation, Mediation, and Arbitration) to enjoy the same rights as those of a majority representative trade union.
- The Commissioner at the CCMA will consider the application and may grant these extended rights.

### 2. Minimum Representation Threshold:

- Additionally, the Commissioner has the authority to determine the minimum threshold required for sufficient representation of a trade union in the workplace.

These changes aim to enhance the rights and influence of trade unions, ensuring fair representation and effective negotiation in labour matters.

## Step 2

### **Appeals and Decision Suspension**

Previously, lodging an appeal against a decision made by the Registrar of Labour Relations would automatically suspend the original decision. However, recent changes mean that the decision will now remain in effect until a different decision is made or no further action is taken.

In other words, appealing the decision no longer automatically puts it on hold. The process will continue, and the decision will remain active unless altered through subsequent proceedings.

### Step 3

## Enforcement of Arbitration Awards

Under the amended regulations, when an employer fails to comply with an arbitration award issued by the **CCMA (Commission for Conciliation, Mediation, and Arbitration)**, the employee has the right to immediately approach the **Labour Court** for a further compliance order. Notably, the previous requirement for the employee to first approach the CCMA before seeking recourse in the Labour Court has been eliminated.

In other words, there is no longer a “grace period” for the employer to comply with an arbitration award. The employee can promptly seek legal intervention to enforce the award.

## Step 4

# Transition from Temporary to Permanent Employment

Under the amended regulations, an employee initially hired temporarily to perform duties of a permanent nature will now be considered a permanent employee after **three months** of continuous service. However, there are exceptions:

### 1. Project-Specific Appointments:

- Temporary employees appointed for specific projects or fixed periods (e.g., covering an employee on maternity leave) are not subject to this transition rule.
- Their status remains temporary for the duration of the project or specified period.

### 2. Temporary Employment Services:

- Employers utilising temporary employment services should be aware that after three months, these employees will be regarded as **permanent employees** within their organisation.
- They will no longer be considered employees of the temporary employment service.

These changes aim to provide greater job security for temporary workers and ensure fair treatment in the workplace.

## Step 5

### **Expanded Grounds for Setting Aside Arbitration Awards**

Under the amended regulations, the aggrieved party now can apply for the setting aside of an arbitration award **after the initial deadline**. This extension is granted based on “**good cause**”.

In other words, if there are valid reasons for the delay, the party can still seek to challenge the arbitration award beyond the usual timeframe.

## Step 6

### Efficient Handling of Arbitration Award Reviews

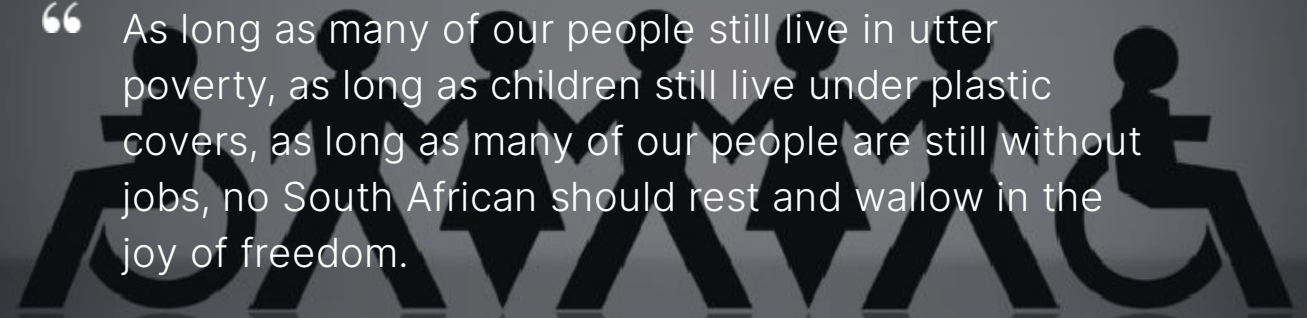
Under the amended regulations, when a party lodges a review application against an arbitration award issued by the **CCMA (Commission for Conciliation, Mediation, and Arbitration)**, the party must now apply for a court date within **six months**. Importantly, the review application no longer automatically suspends the arbitration award.

In other words, parties seeking a review must act promptly to secure a court date, ensuring a more streamlined process for addressing arbitration decisions.

## Automatic Unfair Dismissal

Under the amended regulations, an employee's refusal to accept any matter of mutual interest is now **automatically considered an unfair dismissal**. Unlike before, the burden of proving coercion by the employer to accept such matters no longer rests on the employee.

In other words, if an employee declines any issue related to mutual interest, it is inherently unfair for the employer to dismiss them based on that refusal.



“ As long as many of our people still live in utter poverty, as long as children still live under plastic covers, as long as many of our people are still without jobs, no South African should rest and wallow in the joy of freedom.

Nelson Mandela

## Employment Equity Act– (Act No 55 of 1998)

The Employment Equity Act (Act No 55 of 1998) mandates certain employers to create and execute an Employment Equity Plan. This plan is designed to foster equal

opportunities and affirmative action and to eradicate unfair discrimination. Employers who employ over 50 people or have a certain annual turnover are considered “designated employers”.

The Act aims to rectify employment disadvantages faced by black people (Africans, Coloured and Indian), women, and those with disabilities, collectively referred to as “designated groups”. Designated employers are required to implement affirmative action measures for these groups to achieve employment equity.

Employers who fail to comply with the Act may face penalties. The Act, which was implemented in stages during 2000, directly affects recruitment practices and workforce composition.

The Employment Equity Act enforces Section 9(3) of the South African Constitution, which states that national legislation must be enacted to prevent and prohibit unfair discrimination. It also aligns with Convention 111 of the International Labour Organisation (ILO). Both the Constitution's Section 9 and Convention 111 exclude from the concept of discrimination any differentiation intended to promote, protect or advance persons previously disadvantaged by

unfair discrimination. This differentiation for Affirmative Action is considered “fair” discrimination.

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To further promote equality, the Act mandates Affirmative Action measures and processes and requires the submission of Equity Plans to the Director-General of Labour.

### **Amendments to the Employment Equity Act**

Amendments to the Employment Equity Act stipulate that designated employers are legally required to submit annual reports (EEA2 and EEA4) to the Department of Labour and to have an Employment Equity plan (EEA13) in place.

The amendment, effective from 1 August 2014, primarily affects the definition of a designated employer and the frequency of report submissions to the Department of Labour. An employer is considered a designated employer if they employ 50 or more employees, or if they employ less than 50 employees but have an annual turnover as per the respective industry sectors outlined below:

Industry Sector	Annual Turnover
Agriculture	R 6 million
Mining and Quarrying	R 22,5 million
Manufacturing	R 30 million
Electricity, Gas and Water	R 30 million
Construction	R 15 million
Retail & Motor Trade and Repair Services	R 45 million
Wholesale Trade, Commercial Agents and Allied Services	R 75 million
Catering, Accommodation and other Trades	R 15 million
Transport, Storage and Communication	R 30 million
Finance and Business Services	R 30 million
Community, Special and Personal Services	R 15 million

**Watch this short video...**

 **YOUTUBE**



## **South Africa's Amended Employment Equity Act**

Speaker: Melissa Cogger Firm: Bowmans Jurisdiction: South Africa President Cyril Ramaphosa has signed the Employment Equity Amendment Bill of 2020 into law. It amends the Employment Equity Act 55 of 1998 (Act). The effective date is still to be proclaimed in the Government Gazette. -----

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### **How often must the reports be submitted?**

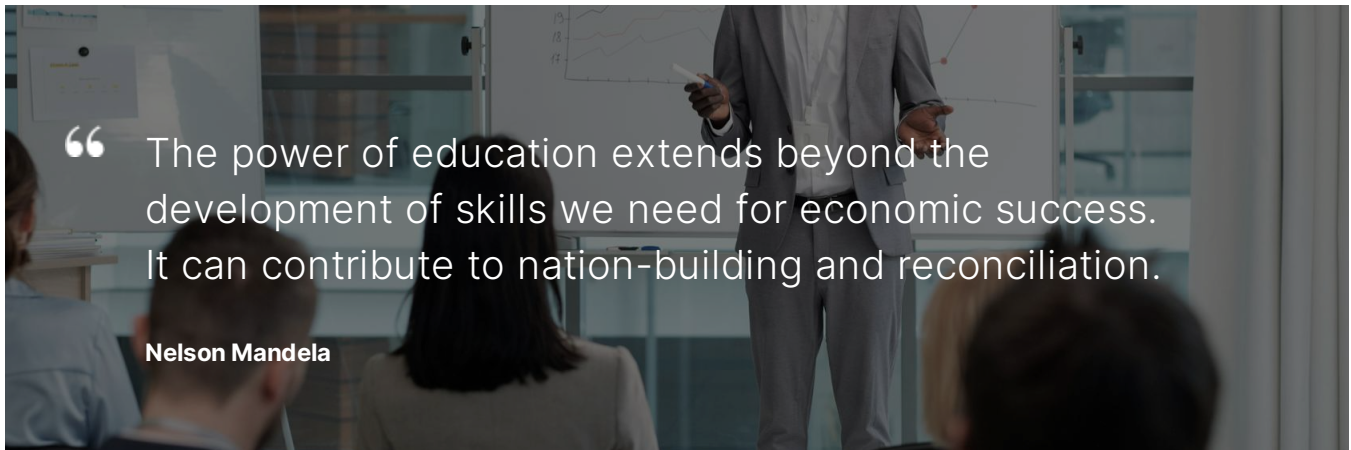
The submission dates for reports (EEA2 and EEA4) are from 1 September to 1 October for hand submissions at your local Department of Labour, or from 1 September to 15 January for electronic submissions. Reports must be submitted annually, regardless of the number of employees.

### **What is the reporting period?**

The reporting period for the Employment Equity reports is from 1 October to 30 September and is repeated annually.

## **Employment Equity plan (EEA13)**

According to Section 20 of the Employment Equity Act, all designated employers must have an Employment Equity plan (EEA13) in place. This plan, valid for 1 to 5 years, must be available on the premises for inspection.



## **The Skills Development Act 1998– (Act No 97 of 1998)**

The Skills Development Act of 1998 (Act No 97 of 1998) was enacted with the following objectives:

- To enhance the abilities of the South African workforce, thereby improving workers' quality of life.
- To boost investment in education and training within the labour market, and to increase the returns on such investments.

- To motivate workers to engage in learnerships and other training initiatives.
- To guarantee the quality of workplace education and to inspire employers to utilise the workplace as a dynamic learning environment, offering employees chances to gain new skills.

This Act, which superseded the Manpower Training Act, the Guidance and Placement Act, and the Local Government Training Act, aims to orchestrate industrial training in a more organized and purposeful way.

In essence, the Skills Development Act is designed to support the Employment Equity Act by encouraging employers to foster the development of individuals who were previously disadvantaged.

### **The Skills Development Levies Act (Act No 9 of 1999)**

The Skills Development Levies Act (Act No 9 of 1999) imposes a levy known as the Skills Development Levy (SDL). The purpose of this levy is to promote learning and development in South Africa. An employer's total payroll determines the amount of the levy. The funds collected from this levy are intended to be used for the development and improvement of employees' skills.

The SDLA provides funding to support training initiatives that aim to enhance employability and skills development. The Act is closely associated with employment equity. All employers who have employees registered for Pay As You Earn (PAYE) are required to pay the levy. The levy is calculated as 1% of the total payroll, which includes overtime payments, leave pay, bonuses, commissions, and lump sum payments. This levy is a crucial part of the government's strategy to boost skills development and employment equity in the country.

## **Quality Council for Trades and Occupations (QCTO)**

The Quality Council for Trades and Occupations (QCTO) is a council established in 2010 under the Skills Development Act. The QCTO oversees the design, implementation, assessment, and certification of occupational qualifications within the Occupational Qualifications Sub-Framework (OQSF).

The QCTO is one of three Quality Councils responsible for a section of the National Qualifications Framework (NQF). Together with the South African Qualifications Authority, which oversees the development and implementation of the NQF, the Quality Councils work to benefit both learners and employers. The QCTO also guides service providers who need QCTO accreditation to offer occupational qualifications.

Occupational qualifications are organised into eight major employment groups following the Organising Framework for Occupations (OFO). These groups include:

- Managers
- Professionals
- Technicians and Associate Professionals
- Clerical Support Workers
- Service and Sales Workers
- Skilled agriculture, forestry, fisheries, craft and related trades
- Plant and Machine Operators and Assemblers
- Elementary Occupations

One of the QCTO's main priorities is the development of Occupational Qualifications. The goal is to create Occupational programmes and training courses that meet the quality requirements for SAQA approval. These can then be delivered across the country by approved service partners.

By adhering to their development policies, learners and employers can be confident that the qualification is nationally recognised within the NQF, is a standardised and tested qualification, and can be officially certified.

The QCTO's mission is to develop, and quality assure occupational qualifications that meet the needs of the labour market and developmental state initiatives.



## **Occupational Health and Safety Act (Act no. 85 of 1993)**

The Occupational Health and Safety Act (OHSA), which was enacted on 1 January 1994, imposes a duty on employers to minimise health and safety risks in the workplace. It provides for the regulation and monitoring of workplaces to protect the health and safety of employees and other individuals in the workplace and in the use of plant and machinery.

In terms of the OHSA, the chief executive officer of every employer is liable for contraventions of the OHSA. Contraventions can lead to criminal convictions, fines,

and/or imprisonment. The maximum period of imprisonment, depending on the section of the OHSA contravened, can range from one to two years.

The OHSA also requires all employers to report accidents or incidents that occur in the workplace.

The main statutory legislation on Health and Safety under the jurisdiction of the Department of Labour is Act No. 85 of 1993: Occupational Health and Safety Act, as amended by Occupational Health and Safety Amendment Act, No. 181 Of 1993.

The most recent regulations to the OHS Act include:

- General Administrative Regulations, 2003
- Certificate of Competency Regulations, 1990
- Construction Regulations, 2014
- Commercial Diving Regulations, 2022
- Driven Machinery Regulations, 2015
- Environmental Regulations for Workplaces, 1987
- General Machinery Regulations, 1988
- General Safety Regulations, 1986
- Noise-induced Hearing Loss Regulations, 2003
- Pressure Equipment Regulations, 2009

- Asbestos Abatement Regulations, 2020
- Hazardous Biological Agents Regulations, 2022
- Hazardous Chemical Agents Regulations, 2021

## Consequences of Non-Compliance with Labour Laws

Labour laws have specific repercussions for non-compliance, ranging from monetary penalties to the potential shutdown of the business.

One of the significant consequences of not adhering to labour legislation could be cases initiated by employees through the Commission for Conciliation, Mediation and Arbitration (CCMA) against the employer. The fines resulting from these cases could have a severe financial impact, particularly on small business owners. It's crucial to stay updated with the latest developments in labour laws to avoid such situations.



**Please note that the information provided here is based on the latest available data and may be subject to change. Always consult with a Labour Law Practitioner for the most accurate and up-to-date information.**

## Organisational Practices

Organisational practices encompass the policies, structures, and actions of an entire organisation. As a small business owner, it's crucial to concentrate your organisational practices on those that directly foster effective labour relations and, consequently, a prosperous business.

## Communities of Practice within Organisations

Communities of practice are prevalent in all organisations. These communities are not confined by organisational affiliations since membership is based on participation rather than official status; they can traverse institutional structures and hierarchies. Expand the accordion below to see where they can be found:

### Within businesses —


Communities of practice emerge as individuals collectively address recurring problems. For example, claims processors within an office may form a community of practice to manage the continuous influx of information they need to process. By participating in this shared memory, they can perform their duties without having to remember everything individually.

### Across business units —

Vital knowledge is often dispersed across different business units. Individuals working in cross-functional teams form communities of practice to stay connected with their colleagues in various parts of the company and preserve their expertise. When communities of practice span business units, they can cultivate strategic perspectives that overcome the fragmentation of product lines. For instance, a community of practice might suggest an equipment purchase plan that no single business unit could have conceived independently.

### Across company boundaries —

In some instances, communities of practice prove beneficial by transcending organisational boundaries. For example, in rapidly evolving industries, engineers working for suppliers and buyers may form a community of practice to keep abreast of constant technological advancements.



Communities of practice are not a novel type of organisational unit; instead, they offer a different perspective on the organisation's structure—one that highlights collective learning rather than the unit they report to, the project they are working on, or their acquaintances. Communities of practice differ from other organisational groups in how they define their enterprise, exist over time, and establish their boundaries:

A community of practice differs from a business or functional unit in that it defines itself through action, as members collaboratively develop their understanding of what their practice entails. This dynamic process results in a much more nuanced definition than a mere institutional charter. Consequently, the boundaries of a community of practice are more flexible than those of an organisational unit. Membership includes anyone who participates in and contributes to the practice. Individuals can participate in various ways and to varying extents. This permeable periphery offers numerous learning opportunities, as outsiders and newcomers learn the practice in practical terms, and core members gain new insights from interactions with less-engaged participants.

Individuals belong to communities of practice concurrently with their membership in other organisational structures. In their business units, they shape the organisation. In their teams, they manage projects. In their networks, they form relationships. And in their communities of practice, they develop the knowledge that enables them to perform these other tasks. This informal network of communities and shared practices makes the official organisation efficient and, indeed, feasible.

## **Check Your Understanding**

Drag and drop the act to its appropriate description...

≡ Labour Relations Act (LRA)

Regulates organisational rights of trade unions and promotes collective bargaining.

≡ Basic Conditions of Employment Act (BCEA)

Establishes and enforces basic conditions of employment.

≡ Employment Equity Act

Promotes equal opportunity and fair treatment in employment.

≡ Skills Development Act

Advances economic development and efficiency in the labour market.

≡ Occupational Health and Safety Act

Promotes health and safety at work.

**SUBMIT**



Complete the content above before moving on.

# Labour Legislation Links to Acts



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Welcome to our comprehensive guide on South African labour legislation acts. This resource aims to provide you with a clear and concise overview of the key legislative acts that govern labour practices in South Africa. Each act is accompanied by a brief description and a hyperlink for easy access to more detailed information. These acts cover a wide range of topics, from basic conditions of employment and compensation for occupational injuries to skills development and unemployment insurance. This guide serves as a valuable reference point. Enjoy your exploration!

1

## **[Basic Conditions of Employment Act 75 of 1997](#)**

This act intends to give effect to the right to fair labour practices referred to in section 23(1) of the Constitution by establishing and making provision for the regulation of basic conditions of employment.

2

## **[Employment Equity Act 55 of 1998](#)**

### **[Employment Equity Amendment Act 4 of 2022](#)**

This act aims to achieve equity in the workplace by promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination.

3

## **[Labour Relations Act 66 of 1995](#)**

This act intends to change the law governing labour relations and, for that purpose, to give effect to section 27 of the Constitution.

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4

**Occupational Health and Safety Act 85 of 1993**

This act provides for the health and safety of persons at work and for the health and safety of persons in connection with the use of plant and machinery.

5

**Skills Development Act 97 of 1998**

This act provides an institutional framework to devise and implement national, sector and workplace strategies to develop and improve the skills of the South African workforce.

6

**Skills Development Levies Act 9 of 1999**

This act provides for the imposition of a skills development levy to encourage learning and development in South Africa. The funds are used to develop and improve skills of employees.

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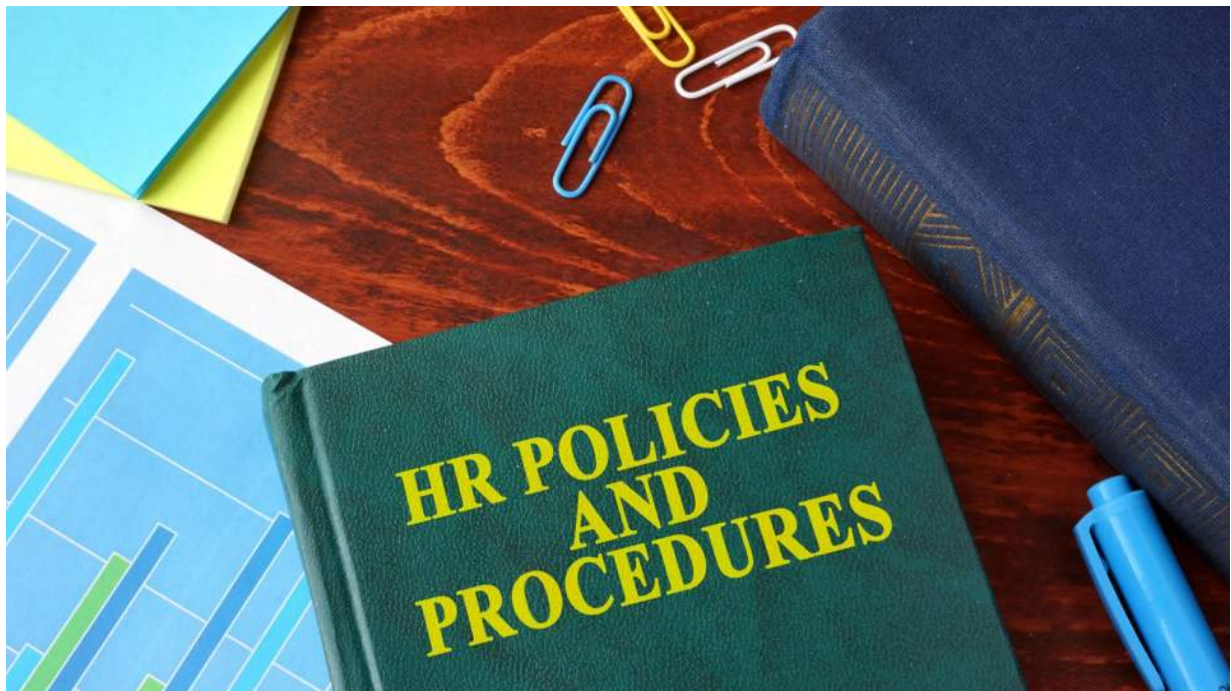
Please note that the links will direct you to the respective acts for more detailed information.

**CONTINUE**

# HR Policies



In South Africa, HR policies and procedures are designed to guide and manage all aspects of employee conduct and performance. These guidelines are tailored to meet the unique needs of each South African organisation. Not only do they provide legal protection, but clear and comprehensive HR policies and procedures also help to diminish uncertainty among employees and boost productivity.



**HR policies and procedures must be dynamic, regularly reviewed, and updated to ensure they don't hinder operations. Adherence to legal standards is mandatory, as**

are the company's specific requirements. All HR policies and procedures must align with and support the company's strategic objectives.

## Formulating and Upholding HR Policies and Procedures

There are compelling reasons to invest time and effort in documenting your organization's ethos and operational methods. Here are some advantages that a written policy and procedures manual can offer your company:

### Efficiency —

When issues crop up, the policy manual is consulted for existing guidelines, saving time that would otherwise be spent on reinventing or recreating policies.

### New Team Member Integration —

Policies and procedures provide a clear picture of your organization's ethos to those who are interested.

### Job Descriptions —

They offer detailed job descriptions.

---

**Orientation** —

They help new members, directors, employees, and contract workers understand their roles, job standards, and expectations.

---

**Consistency** —

They ensure continuity and consistency in decision-making, keeping the organization on track even when there's a change in management.

---

**Direction** —

They help set a positive direction for the organisation.

---

**Review** —

They provide a means to review existing programs and services to ensure they meet the needs.

Examples of HR policies within a South African organisation might include:

1

**Employment Equity Policy:** This ensures equitable treatment and equal opportunities for all employees, in accordance with the Employment Equity Act.

2

**Health and Safety Policy:** This involves adherence to the Occupational Health and Safety Act to ensure a safe workplace.

3

**Leave Policy:** This details the types and entitlements of leave available to employees, including annual, sick, and maternity leave, as stipulated by the Basic Conditions of Employment Act.

4


**Performance Management Policy:** This sets out a structure for assessing and enhancing employee performance, aiding in the organisation's overall achievement.

5

**Discrimination Policy:** This policy is designed to ensure equal treatment for all employees, regardless of race, gender, religion, or any other protected characteristic. It prohibits any form of discrimination in the workplace, including in hiring, termination, and promotion processes. Each employee should have an equal opportunity to succeed.

6

**Harassment Policy:** This policy aims to cultivate a respectful and professional work environment free from harassment and bullying. It affirms the right of all employees to a workplace that is both safe and respectful. The policy categorically forbids any form of harassment, including sexual harassment, and provides a clear process for reporting incidents and seeking remedy.



7

**Equal Opportunity Policy:** An Equal Opportunity Policy guarantees that every employee has the same opportunity for success in the workplace. It mandates reasonable accommodations for employees with disabilities and obliges employers to actively foster diversity within their workforce.

8

**Attendance Policy:** Most companies implement strict attendance policies to ensure that employees are present and accounted for during work hours.

9

**Leave Policy:** Leave policies differ but generally permit employees to take time off, either paid or unpaid, for personal matters.

10

**Disciplinary Policy:** Details the repercussions for employees who breach company regulations or partake in misconduct.

11

**Code of Conduct Policy:** This establishes ethical guidelines for employees, emphasising honesty, integrity, confidentiality, and professionalism. It promotes trust and supports a positive workplace atmosphere.

12

**Anti-Bribery and Corruption Policy:** It is designed to combat bribery, kickbacks, and other corrupt activities. It ensures adherence to anti-corruption legislation and offers clear guidelines for the acceptance of gifts and engagement with third parties.

13

The **Workplace Diversity and Inclusion Policy** acknowledges and appreciates the variety in race, ethnicity, gender, age, and

abilities. It fosters an environment of inclusivity where respect is paramount. Additionally, it supports the recruitment and progression of diverse talent.

14

A **Social Media Policy** outlines the permissible use of social media for employees, ensuring a balance between personal expression and professional responsibility, while safeguarding confidential information on the internet.

15

The **Remote Work Policy** outlines the structure for remote work setups, communication protocols, and cybersecurity measures. It also offers strategies to ensure productivity is upheld during remote work.

16

**Grievance Policy:** This policy provides a clear process for employees to voice concerns. It guarantees the fair and swift resolution of grievances. It outlines the necessary steps for escalation when required.



In summary, HR policies serve as crucial guidelines within organisations. They define expectations, rights, and responsibilities for employees, covering areas such as conduct, diversity, safety, and leave entitlements. By ensuring consistency, legal compliance, and a positive work environment, these policies contribute to effective human resource management.

## **Steps to Develop Policy and Procedures**

Developing effective policies and procedures is a meticulous process that requires a clear understanding of the organisation's objectives, comprehensive research, and active involvement of various stakeholders. Here is a detailed guide on the steps to develop robust and effective policies and procedures:

## Step 1

### **Identify the Need for a Policy**

The first step is to identify the need for a new policy. This could be due to a new legal requirement, a gap in existing policies, or a specific need within the organisation. It's important to clearly define the problem that the policy is intended to address. This includes understanding the impact of the problem on the organisation and the benefits of addressing it.

## Step 2

### **Research and Consult**

Once the need for a policy is identified, the next step is to conduct research. This could involve looking at how other organisations have addressed similar issues, reviewing academic literature, or consulting with experts in the field. It's also important to consult with stakeholders, including employees, management, and any external parties who may be affected by the policy. This can help to ensure that the policy is practical and well-received.

### Step 3

## Draft the Policy

After conducting thorough research and consultation, the next step is to draft the policy. This should include a clear and concise policy statement that outlines the purpose of the policy, who it applies to and the key points of the policy. The policy should be written in plain language to ensure that it is easily understood by all those who are affected by it.

## Step 4

### **Develop Procedures**

Alongside the policy, you should also develop procedures. These are the specific steps that individuals within the organisation will follow to comply with the policy. The procedures should provide clear, step-by-step instructions and should be practical and easy to follow.

## Step 5

### **Review the Policy and Procedures**

Once the policy and procedures have been drafted, they should be reviewed by stakeholders. This includes those who will be affected by the policy, as well as those who will be responsible for implementing it. The review process is an opportunity to catch any potential issues or oversights before the policy is implemented.

## Step 6

### **Approve the Policy and Procedures**

After the review process, the policy and procedures will need to be approved. The level of approval required will depend on the organisation's structure but could include department heads, the executive team, or the board of directors.

## Step 7

### **Implement the Policy and Procedures**

Once the policy and procedures have been approved, they need to be implemented. This involves communicating the policy and procedures to all relevant parties and providing any necessary training or support to ensure that they are understood and followed.

## Step 8

### **Monitor and Review**

Finally, it's important to regularly monitor and review the policy and procedures to ensure that they are still relevant and effective. This could involve collecting feedback, analysing data, or conducting audits. If necessary, the policy and procedures can be revised or updated to better meet the needs of the organisation.

## Summary

Remember, the specific process can vary depending on the nature of the policy and the structure of the organisation. It's always a good idea to seek legal advice when developing policies to ensure compliance with all relevant laws and regulations. It's also important to ensure that policies and procedures are developed in a way that is inclusive and respectful of all individuals within the organisation. This can help to ensure that the policy is not only effective but also fair and equitable.

## Check Your Understanding

Match the policies with their descriptions by dragging and dropping:



Employee Punctuality and Attendance Policy

Includes verbal and written warnings, and outlines potential termination steps.



Health and Safety Policy

Ensures compliance with anti-corruption laws.



Workplace Diversity and Inclusion Policy

Recognises and values differences in race, ethnicity, gender, age, and disability.



Remote Work Policy

Addresses remote work arrangements, communication, and cybersecurity.



Social Media Policy

Balances personal expression with professional conduct.



Grievance Policy

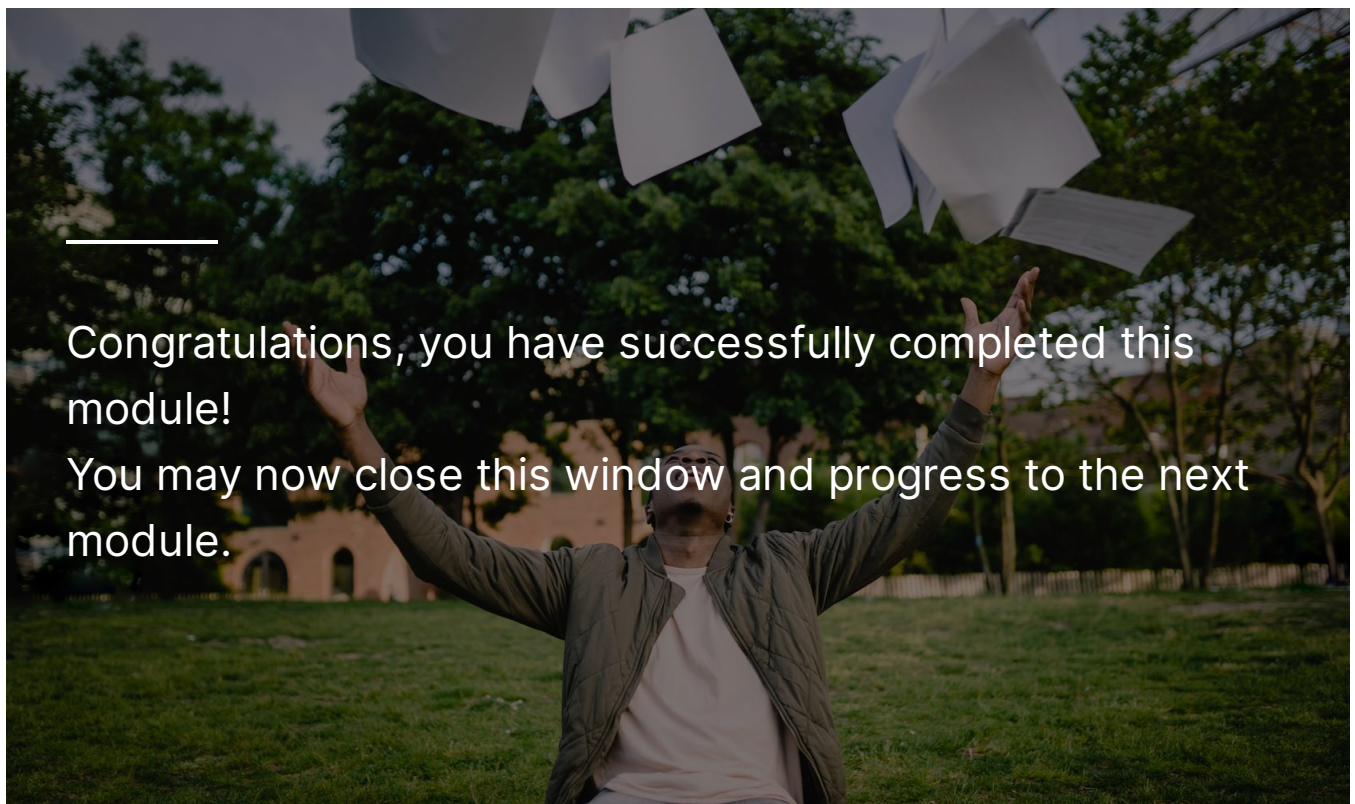
Outlines the process for employees to raise concerns.

**SUBMIT**



Complete the content above before moving on.

# Introduction: Completed



Congratulations, you have successfully completed this module!  
You may now close this window and progress to the next module.