



**Leaving Cert Business**

**Comprehensive Revision Notes**

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## Business-Unit 1

### Chapter 1-People in Business

### Stakeholders

***Stakeholders-Anyone affected by how a business is run***

List of Stakeholders:

1. Entrepreneur
2. Investor
3. Employee
4. Employer
5. Producer
6. Consumer
7. Service Provider
8. Interest Group

- 1. Entrepreneur-An entrepreneur is someone who spots a gap in the market and takes the initiative to set up a business to make money from that opportunity. He takes a big risk (both financial and personal) in doing so.***

*Examples of Entrepreneurs-Bill Gates (Microsoft)*

- 2. Investor-A person who gives capital to the entrepreneur that is needed to set up the business in exchange for a return on the investment.***

- Investors can also give capital in return for a share (equity capital) and receive a dividend.
- May also give capital to be paid back with interest (debt capital)

*Example of Investor-Bank of Ireland*

- The entrepreneur and investor have a dependent relationship.

- 3. Employer-The person who hires others to work for them. Rewards the employee with pay, bonuses, commission, more holidays etc.***

*Example of employer-Aer Lingus*

- 4. Employee-***The person who works for an employer in return for a wage. Has essential skills needed to run the business which the employer doesn't have or isn't willing to do.*

*Example of employee-Pilot in Aer Lingus*

- The employee and employer have a dependent relationship.

- 5. Producer -***A business that makes finished products from raw materials to sell to consumers. Combine four factors of production (land, labour, capital, enterprise) in order to do so.*

*Example-Cadbury's who take milk and other ingredients and turn it to chocolate.*

- 6. Consumer-***The person who buys goods or services for his own personal use. Provides the entrepreneur with a market and a profit.*

- The producer and consumer depend on each other

- 7. Service Provider-***A business that offers a range of valuable support to a entrepreneur. They operate in the tertiary sector of the economy.*

*Example-Eircom who provides businesses with communications, which is a valuable support.*

- 8. Interest groups-***An organisation of people who come together and campaign for a common goal, by combining they have more money, power and skills. They use tactics such as negative publicity and boycotts.*

*Example-Greenpeace-Boycott of Shell after dumping of oil rig  
Irish Business and Employers Confederation (IBEC)-help businesses.  
Irish Congress of Trade Unions (ICTU)-fight for rights of workers*

## **Relationship between Stakeholders**

### **1. Co-operative Relationship**

- This means that the stakeholders in the business have different objectives but work together to help each other achieve their goals.
- It is a win/win situation.
- They achieve better results than if they worked alone or against each other.

*Example - Employers and employees working together to save business. Employees agree to pay cut in return for shares*

### **2. Competitive Relationship**

- This means that one party wants to be more successful than the other.

- This is a win/lose situation.
- They believe only one of them will win the fight against each other.

*Examples - Two employees might compete for a promotion in a business  
Ryanair and Aer Lingus compete with each other*

### **3. Dependent Relationship**

- This means that the parties need each other to be successful and achieve their goals.
- They rely on the other party to provide them with what they need so they can be a success.

*Example-Consumers and producers depend on each other. Consumers rely on producers to make products they need and want. Producers rely on consumers for profit*

### **4. Dynamic Relationship**

- This means the relationship is constantly changing.
- Sometimes the parties have a competitive relationship and sometimes they have a co-operative relationship.

*Example-Coke and Pepsi when secret recipe was revealed  
Competing businesses in a town might work together in festival.*

## **Contract Law**

**Contract-A legally binding agreement between two or more people that is enforceable by law.**

### **Essential Elements**

#### **1. Offer**

- When one person asks another to enter into a deal with them. Must be valid and all terms must be set out clearly.
- An offer can be withdrawn at any stage before the other person accepts it.

NOTE: Price tags, shop displays etc. are not offers but **invitations to treat**. They indicate the seller of the goods would like to receive offers for it. The customer asks to buy the goods at the price shown. The seller can accept or refuse this offer.

#### **2. Acceptance**

- When the other person agrees to the terms of the contract.
- The person must accept all the conditions of the deal exactly as they are and cannot change them.
- *When the supermarket scans your goods.*

### **3. Consideration**

- The payment that must be received by each party (quid pro quo- both sides must get something from the contract).
- Must be real and valuable.
- *The supermarket receives your money and you receive the goods.*

### **4. Intention to Contract**

- Both parties must mean for it to be a legally binding agreement.
- Agreements between family members are never contracts because there is no intention for them to be.
- *Agreements between business people are always meant to be.*

### **5. Capacity to Contract**

- The people must have the legally ability and power to enter into a contract.
- *Everyone can except under 18's, mentally incapacitated, diplomats and directors who act ultra vires (beyond their authority)*

### **6. Consent to Contract**

- This means that both parties must give their full and real permission i.e. cannot be threatened.
- There must be no mistakes or lies
- *Someone can't be forced into making a contract.*

### **7. Legality of Form**

- Certain contracts must be drawn up in certain ways.
- *Hire purchase contracts must be in writing.*

### **8. Legality of Purpose**

- Legally binding contracts can only be for legal transactions.
- *A contract over a robber will not be upheld in court.*

## **Termination of a Contract**

### **1. Performance**

- When both sides carry out their duties as under the contract.
- The contract then ends.
- *In a car transaction if one side receives the money and the other receives the car.*

### **2. Agreement**

- If the parties involved voluntarily agree to end the contract.
- Most employment contracts allow either side to end the contract with one months notice.

- *Football player might end contract to enter into longer one with more money.*

### **3. Frustration**

- If an unforeseen event occurs to one party such as death or illness and the contract can't be carried out.
- *If a singer has a contract with a pub owner but dies before performance.*

### **4. Breach of Contract**

- If one person breaks a condition of the contract-essential element of the contract- it is terminated immediately.
- Not if someone breaks a warranty-non-essential term of a contract- contract not ended.
- *If a football player misses a training session that is breach of warranty, if he misses a match that is a breach of condition.*

## **Remedies for Breach of Contract**

### **1. Damages**

- The person who broke the contract is ordered to pay financial compensation.
- This is good as innocent person does not lose out as a result and may receive extra money.
- *If a singer doesn't show up for a concert she will have to pay for money lost and inconvenience caused.*

### **2. Specific Performance**

- The person has to carry out the terms of the contract as it was originally.
- This is good as innocent person doesn't suffer at all.
- *The singer could be ordered to perform at a later date.*

### **3. Rescind the Contract**

- The judge can't restore the parties to exactly how they were before the contract was written which would happen in case of frustration.
- This is good as the innocent person is no worse off.
- *If the singer was ill the contract might be rescinded.*

## Chapter 2-Consumer Conflict

- Caveat Emptor: Let the buyer beware. Consumers are expected to be cautious and use their common sense when purchasing goods and services

### **Non-Legislative Methods of Solving Consumer Conflicts**

- Conflict is solved without reference to the law of Ireland or any legal agency.

#### **1. Negotiation**

- This involves bargaining to reach a mutually acceptable position.
- The consumer and shop must continue talking until they compromise.

#### **2. Consumer's Association of Ireland**

- An interest group for consumers to make sure they get good quality products and know their rights.
- They publish Consumer Choice which helps consumers.

Functions; ensure consumers get

- Get good quality products.
- Get good value.
- Know their rights.

### **Legislative Methods of Solving Consumer Conflicts**

#### **1. Sale of Goods and Supply of Services Act, 1980**

- a) Goods must be:**

    - Of merchantable quality.
    - Fit for their purpose.
    - As described.
    - Conform to sample.
  - b) Services-**

    - Supplier must be qualified.
    - Service must be provided with care and diligence.
    - Any materials used as part of service must be of merchantable quality.
- If they don't satisfy this the consumer is entitled to a full refund, replacement or repair providing they act promptly.
- c) The retailer is always legally responsible for the consumer's complaints.**
  - d) The retailer can't put up signs which give the impression that consumers have no legal rights such as 'No Refunds'.**

- e) Guarantees can't take away from consumer's rights but can only add to them.

### **Evaluation**

- a) The law ensures that consumers get their money back if the product doesn't meet the standards and ensure they don't lose out as a result.
- b) Consumers can't be fooled into thinking they must accept a credit note.

## **2. Consumer Protection Act, 2007**

The **Consumer Information Act 1978** has been replaced by the Consumer Protection Act 2007. Two of the main elements of the Consumer Protection Act 2007 are:

- a) **It establishes the National Consumer Agency on a statutory basis**
- b) **It updates and modernizes consumer law.**

In particular this Act:

- a) **Protects the consumer from misleading advertisements**
- b) **Requires that the information in advertisements is fair and accurate**
- c) **It is illegal for an advertiser or business to make false or misleading claims about goods, services or prices**
- d) **All types of communications that promote goods or services are covered by the Act.**

## **3. National Consumer Agency (formerly Director of Consumer Affairs)**

- Was set up under the Consumer Protection Act 2007 to:
  - a) **Inform consumers of their rights.** It does this by publishing a shopper's rights card, runs a phone service and has a website.  
**Evaluation**-This is good as it lets consumers make better decisions.
  - b) **Investigate breaches of consumer laws.** It has the power to enter a premises, take evidence, bring the police and apply for search warrant.  
**Evaluation**-This is good as it has real power to investigate businesses that break the law.
  - c) **Make sure businesses obey consumer legislation.** It can issue on-the-spot fines, name and shame businesses in the Consumer Protection List and refer cases to DPP.  
**Evaluation**-This is good as it ensures that if consumers are lied to, that it won't happen again and that the shop is punished.

- d) **Conduct research into consumer issues.** It finds out what the most important issues are and what areas of law need improving.

**Evaluation**-This makes sure that the government and consumers are aware of the latest scams.

- e) **Be an advocate for consumers.** It informs the government or problems and consults with other agencies to assess their impact on consumers.

**Evaluation**-This is good as consumers have a powerful organisation to stand up for them.

#### **4. Small Claims Court**

- **The aim is to handle consumer claims easily, quickly and cheaply without involving a solicitor.**
- The consumer can't sue for more than €2,000 and must pay €15.
- They can take their case online-smallclaims.ie
- The Small Claims Registrar brings both sides together to try solve the dispute.
- If they can't it is referred to the local District Court, evidence is under oath, witnesses can be called and cross-examined.
- If the judge finds in favour of the consumer the business has 4 weeks to pay.

#### **Evaluation**

- a) **It ensures consumers get justice easily, quickly and cheaply without involving a solicitor.**
- b) **Every consumer can get justice in their local district court.**
- c) **Small claims online allows anyone to take a case in their own time.**

#### **5. The Ombudsman**

- If a consumer is in conflict with: Governmental departments, local agencies, the HSE or An Post they can get in touch with the Ombudsman.
- They can complain in writing, phone or email and there is no fee.
- The Ombudsman will investigate the complaint, can look at any documents and interview any member of staff.
- He will make a recommendation on the issue which isn't legally binding but if they don't conform he will shame them in the report to Dail Eireann

#### **Evaluation**

- a) **The service is provided free of charge which saves consumers money as they don't have to bring the public body to court.**
- b) **It would be intimidating to take on a public body but Ombudsman has legal power to take on public bodies and get to truth.**

## Chapter 3-Industrial Relations Conflicts

- Industrial relations refers to the relationship between employers and employees. May be either good or bad.

### **Importance of good Employer-Employee Relationships**

1. **Employee morale is increased** - Employees will be happier in their work and with their employers. Their willingness to do their best for the business increases.
2. **Employee productivity is increased** - employees will put an extra effort into their work.
3. **Employees are more likely to stay in their job** - Labour turnover and absenteeism will decrease. As a result less money will be spent on training and recruiting etc.
4. **Employees have power to make decisions** - The employer will delegate work to employees. Employees will make a more useful contribution to the business (Employee Empowerment).
5. **Less chance of strikes** - This is positive as strikes are bad for business- loss of sales, reputation etc. They are also bad for employees- loss of wages.

### **Pay Claims**

#### **1. Comparability Claim**

- Employees ask for more pay because other employees doing similar work are receiving one. However sometimes the business cannot afford to give one. *Dunnes Stores cashiers want a pay rise and Superquinn cashiers recently received one.*

#### **2. Relativity Claim**

- Sometimes pay of certain employees is linked to pay of employees doing completely different jobs. *Civil servants and TD's*

#### **3. Productivity Claim**

- Employees ask for rise to compensate them for having to work harder or cope with changes brought in by the employer.

#### **4. Cost Of Living Claim**

- They ask for a pay rise because they can't afford to live on current wages due to inflation.

### **Types of Industrial Action**

**Official Strike**- Secret ballot, 7 days notice, strike pay, legal in Ireland.

**Unofficial Strike** - No secret vote or 7 days notice, illegal, not recognised by unions.

**Wildcat Strike** - employees strike without any notice, illegal, no vote, employees walk off the job.

**All Out Strike** - all employees in firm go on strike even though only some employees are in dispute with the employer, ICTU permission needed.

**Political Strike** - protest against government, illegal.

**NOTE:** Employees are entitled to protest against the government but cannot leave work to do so.

**Sympathetic Strike** - employees not involved in dispute go on strike to show support for striking workers, illegal.

**Work-to Rule** - Do basic job and nothing else, employees are completely inflexible, slows down production, still get paid, *2007 Irish nurses refused to answer phones etc.*

**Overtime Ban** - refuse to do overtime, effective way to put an employer under pressure when business is busy.

**Lockout** - employer locks out employees but are not sacked but refused entry into work, hope employees will give in first as they need their wages.

## **Non-Legislative Methods of Solving Conflicts**

### **1. Negotiation**

- Process of bargaining to try and reach a mutually acceptable solution to the conflict.
  - Direct negotiations between employer and employees.
  - May be represented by trade union. Employers-management.
  - When both sides agree it is a collective agreement (not legally binding).

### Trade Unions

- Interest group that represents employees' views.
- Employees pay annual subscription.
- *SIPTU-Largest union with 200,000 workers.*

### Functions of trade Union

- The Union will fight to get **better pay and working conditions** and provide professional negotiators.
- Union will help an employee with a **dispute** and will pay any legal bills.
- Union will represent employees as **National Pay Agreements**.
- **Protect members' interests**-fight to get best redundancy deal, publicise cause.  
*INO put up posters showing how vital nurses are.*

### Shop Steward

- Spokesperson elected by employees as their official union rep in the workplace.
  - Recruit new members.
  - Represent members in negotiations.
  - Keep members up to date with information.
  - Inform union office about their concerns.

### ICTU-Irish Congress of Trade Unions

- An interest group representing almost all the trade unions in Ireland.
  - **National Pay Agreement Negotiations**-ICTU negotiates at the agreements to achieve best deal for workers. *Current agreement-'Towards 2016' have 10% rise over 27 months.*
  - **Give permission for all-out strikes.** *If Aer Lingus pilots are on strike and other workers there want to strike they need permission*
  - **Settle disputes between unions**-ICTU will mediate.
  - **Provide training to unions**- train shop stewards and union reps in the skills needed to run a union properly e.g. negotiation skills.
  - **Promote cause of trade unions**-make submissions to Minister for Finance.  
*Speaks for over 750,000 workers.*

## 2. Conciliation

- Two parties ask an independent conciliator to help them.
- Occurs when negotiation has failed.
- Tries to get them to reach mutually acceptable agreement.
- She does not tell them what to do and her advice isn't legally binding.

## 3. Arbitration

- Two parties ask arbitrator to investigate and make a ruling.
- Both parties agree whether or not to accept ruling in advance.
- If they agree it is a binding arbitration- the solution must be accepted.

## **Legislative Methods of Solving Conflicts**

### **1. Industrial Relations Act, 1990**

#### **1. Trade Disputes**

- A trade dispute is a dispute between employers and employees in connection with the employment and non-employment of employees and the terms and conditions of the job.
  - **Law states that employees can take industrial action only in disputes related to their jobs.**
  - **Legitimate:**
    - Pay and Conditions of employment-wages, overtime etc.
    - Dismissal or suspension.
    - Employer refuses to recognise union.
    - Discrimination.
    - Disagree with duties being asked of them.
  - **Illegal**
    - Disputes over a closed shop-only one choice of union.
    - Political Issues.
    - Disagreement about how business should be run.

#### **2. Secret Ballot and Weeks Notice**

- Must have secret ballot-YES/NO
- The workers hold a vote. Cannot be a show of hands- must be private.
- Must give 7 days' notice.

#### **3. Primary Picketing**

- Allowed to picket peacefully outside business-draw attention and gain sympathy- *Teachers strike in 2000.*
- There must be no intimidation or obstruction.

#### **4. Secondary Picketing**

- Employees can picket outside the premises of another employer who is helping their boss to break their strike.
- *Dunnes stores cashiers being sent to Superquinn's to help break strike.*

#### **5. Striking Workers can't be sued/stopped/arrested**

- As long as they had secret ballot, weeks' notice and are picketing peacefully.
- Employer cannot try and stop the strike if it is legal.

## **6. Labour Relations Commission**

### **Evaluation**

- Gives workers legal right to protest against employer who won't give in to legitimate demands. Allows them to protest against a business who frustrates their strike. Can put pressure to get own way.
- Employees can't be bullied into striking.
- Irish workers are protected from being arrested or sued from legal and peaceful picketing.

## **2. Labour Relations Commission (LRC)**

- Set up under Industrial Relations Act to: promote better industrial relations and help solve disputes. It consists of 7 members- chairperson, 2 employee reps, 2 employer reps, 2 government reps.

### **Functions of Labour Relations Commission**

#### **1. Provides Conciliation Service**

- Encourages both sides to talk to each other and negotiate. Also offers advice.
- **Evaluation**-It settles most disputes and is a free service- allows industrial disputes to be resolved cheaply.

#### **2. Provides advisory service**

- Advises employers and employees on how to behave in order to have good industrial relations.
- **Evaluation**-Good as it helps to prevent disputes.

#### **3. Draws up Codes of Practise**

- Generally accepted rules designed to minimise problems e.g. *code that sets out procedures to address bullying in work place.*
- **Evaluation**-Following these will lead to less disputes and better relationships in the business.

#### **4. Conducts Research**

- Tries to develop news ways of solving disputes.
- **Evaluation**-Good as it helps them to identify future problems and come up with solutions.

#### **5. Provides Rights Commissioners**

## **LRC Rights Commissioners**

- Investigates disputes involving employees but can only deal with unfair dismissal, maternity leave, suspension and disciplinary procedures.
- Invite parties to private hearing, each party can comment and bring witnesses.
- Try to reach mutually acceptable agreement.
- Issues recommendation on dispute-can be appealed to Labour Court (or Employment Appeals Tribunals over unfair dismissals).

### **Evaluation**

- Employees who feel they are victimised that get justice in private.
- Incentive for both parties to use this service as it is free and not legally binding.

## **3. Labour Court**

- Established to provide free service to solve disputes-it is a tribunal not a court of law.
- It issues non-legally binding recommendations (except for cases to do with Employment Equality Act, 1998)
- Court of last resort.
- Consists of chairperson, 3 employer reps and 3 employee reps.

## **Functions of Labour Court**

- 1. To investigate industrial disputes and issue non-binding recommendations.**
  - **Evaluation**-Has power to get to truth in conflict.
- 2. To hear appeals against recommendation of Equality Officer and make legally binding judgement.**
  - **Evaluation**-Deals with discrimination very thoroughly.
- 3. To interpret LRC Codes of Practise and investigate breaches.**
  - **Evaluation**-Ensures that people obey best relations practises.
- 4. To register collective agreements and make them binding.**
  - **Evaluation**-Gives both side the confidence that the agreement can't be broken.

## **4. Unfair Dismissals Act, 1977/93**

- ***The law states that every sacking is fair and that it is up to the employer to prove that it was fair.***
- ***It applies to everyone with one year's continuous service and who is aged between 16 and the normal retiring age.***

- **The burden of proof is on the employee e.g. the employee doesn't have to prove anything.**

### **Reasons for Fair Dismissal**

1. **Incapable of Doing the Job**-lateness, absenteeism etc.
2. **Not Qualified**-lied about qualifications necessary.
3. **Incompetent**-fails to meet standards required.
4. **Misconduct**-illegal or inappropriate activity e.g stealing.
5. **Redundancies**-business going through bad patch.

### **Reasons for Unfair Dismissal**

1. **Pregnancy**-Or anything related such as maternity leave.
2. **Union activities**-being a part of a union.
3. **Beliefs**-religious or political.
4. **Race**-skin colour or ethnic background.
5. **Suing boss**-or witness against him.
6. **Traveller.**
7. **Sexuality.**

### **If Unfairly dismissed**

- Take a case to Rights Commissioner or Employment Appeals Tribunal.
- It is up to the employer to prove that the dismissal was fair.
- **EAT: Employment Appeals Tribunal:** An independent set up to investigate employee's rights- informal, quick, fair. Its judgement is final and can only be appealed through the courts.

### **Redress for Unfair Dismissal**

- **Re-instatement:**
- Same job, same pay, full back pay from date unfairly sacked, improvements in pay conditions.
- **Re-engagement:**
- Same job or different but suitable job, not entitled to back pay. Often used when employee contributed to dismissal even though it is unfair.
- **Compensation:**
- Paid for financial loss, no compensation for stress, max. compensation is 2 years.

### **Constructive Dismissal**

- Employee resigns from job due to employer's conduct.
- This is illegal.
- The employee must prove that he was forced to resign i.e. burden of proof on the employee

### **Evaluation of Unfair Dismissals Act, 1977/93**

- Employees don't lose jobs for spurious reasons and the employer must have legitimate reason.
- Any worker unfairly dismissed can receive compensation or get job back after taking her case to the free service of Rights Commissioners and has nothing to lose.
- Employees are protected from nasty bosses who make them miserable at work.

### **Employment Equality Act, 1998**

#### **1. Discrimination**

- ***This is treating one person less favourably than another would be treated in same situation due to:***

1. ***Gender***
2. ***Marital Status***
3. ***Family Status***
4. ***Age***
5. ***Disability***
6. ***Race***
7. ***Sexuality***
8. ***Religion***
9. ***Traveller***

- The law makes it illegal to discriminate:
  1. When hiring, training and promoting.
  2. In conditions of employment.
  3. In advertising for employees.
- The law makes 'equal pay for equal work' a legal requirement.
- Positive discrimination is allowed to promote equal opportunities.
- The law set up the Equality Authority to:
  1. Eliminate Discrimination.
  2. Promote equal opportunities.
  3. Draw codes of practise.
  4. Give public information.

### **Director of Equality Tribunal**

1. Investigate cases of discrimination.
  - **Evaluation**-good as they investigate for free and make sure it doesn't continue.
2. Refer to Equality Mediation Officer if not serious who will try to reach solution.
  - **Evaluation**-good as it is kept confidential.
3. Refer to Equality Officer if it is serious who makes a ruling.
  - **Evaluation**-good as case is investigated thoroughly.
4. Director makes final decision in all cases which must be obeyed.
  - **Evaluation**-employee can get compensation for suffering and it must be obeyed.

*A teacher was awarded money after she didn't get job of principal because she was woman in All boys School.*

### **Evaluation**

- Ensures employees can't be treated badly by prejudiced bosses.
- Sets out to help 9 categories of people who have historically been victims.
- The Director of Equality Tribunal is government backed official who will fight for worker and whose ruling must be obeyed.