THE EFFECTS OF THE LABOUR RELATIONS ACT ON
SMALL, MEDIUM AND MICRO ENTERPRISES (SMME’S)
IN THE NELSON MANDELA METROPOLITAN

BY

KHAYALETHU GOODMAN MATISO

At Port Elizabeth Technikon

PROMOTOR : Dr T S Hutton
January 2003
PORT ELIZABETH
DECLARATION

I Khayaletu Matiso hereby declare that:

THE EFFECTS OF THE LABOUR RELATIONS ACT ON SMALL, MEDIUM AND MICRO ENTERPRISES (SMME’S) IN THE NELSON MANDELA METROPOLITAN

Is my own work and all sources used or quoted have been indicated and acknowledged by means of complete references. I have not previously submitted this thesis for a degree at another university or technikon.

----------------------------------------  ----------------------------------------
Khayaletu Matiso                              Date
ACKNOWLEDGEMENTS

The successful completion of this study would have been impossible without the support, advice, assistance and encouragement of others. My sincere and grateful thanks are extended to all those individuals and organisations who contributed to the successful completion of this study. In particular, the assistance of the following is acknowledged:

- Dr Tim Hutton, my promoter, for his professional and constructive guidance, unrelenting encouragement, advice and motivation.

- Letitia Clinghan, the Executive Secretary in the office of the Executive Director: Student Services at University of Port Elizabeth for her administrative support.

- The staff of the MBA Unit at the Port Elizabeth Technikon for their support.

- The respondents of the study who supplied the empirical data.

- Gwen Mgayi, who did the fieldwork for the study.

- Mr Johan Hugo, a lecture in Mathematical Statistics at the University of Port Elizabeth, who assisted with statistical analysis of the results.
THE EFFECTS OF THE LABOUR RELATIONS ACT ON SMALL, MEDIUM AND MICRO ENTERPRISES (SMME’S) IN THE NELSON MANDELA METROPOLITAN

BY

KHAYALETU GOODMAN MATISO

DEGREE : Magister Technologiae (Business Administration)

FACULTY : Management

PROMOTER : Dr T S Hutton

ABSTRACT

The society in which we live is economically based and the greater part of our activities centres in the economy. Within this context, the Department of Trade and Industry recognized that small business development was an important area for government intervention. A long process of highlighting the importance of this sector and creating the right environment in which small businesses could grow and flourish was initiated at the level of policy and legislation.
In the Labour Relations field, an attempt at achieving some measure of certainty in previously disputed areas was made through the passing of the Labour Relations Act of 1995.

This study aims at exploring the effects of this Act on the growth and development of the small business sector in the Nelson Mandela Metropole. In fulfilling this aim, the focus was restricted to factors such as dismissal of workers, strikes and lock-outs, freedom of association and dispute resolution.

The theory pertaining to Labour Legislation and small business development was obtained by means of conducting a comprehensive literature study. The literature study included all relevant perspectives on the Labour Relations Act and Government Policy on small businesses. From the study, a questionnaire was developed to test the impact of the Act on the growth and development of the small business sector in the Nelson Mandela Metropole.

The empirical results, in general, indicated non-compliance with the Labour Relations Act and negative views on the value of the Act on the growth and development of the small business sector in the Nelson Mandela Metropole. From the literature study and the findings of the research questionnaire, it became apparent that:

- A comprehensive audit of the small business sector in the Nelson Mandela Metropole is needed. The aim of the audit would be to review the current operations of the small business
sector in the Metropole. This outcome will indicate the extent of understanding and compliance with the various aspects of the Labour Relations Act.

- The acquisition of industrial relations knowledge and skills by owners and leaders in the sector is vital for the development of the sector. The Skills Development Act provides a funding framework for skills training that is relevant to a specific industry. The small business sector could benefit significantly from the provision of this piece of legislation.

- A comprehensive support programme for SMME's is a necessary prerequisite for the growth and development of the sector. The support system could include tax incentives, flexible labour legislation and training as indicated in the above paragraph.
CONTENTS

TABLE OF CONTENTS i
LIST OF TABLES vi

TABLE OF CONTENTS

CHAPTER ONE

1.1 INTRODUCTION, DEFINITION, KEY CONCEPTS, PROBLEM STATEMENTS AND RESEARCH OUTLINE 1
1.2 MAIN PROBLEM 2
1.3 SUB-PROBLEMS 3
1.4 DEMARCATION OF THE RESEARCH 4
   1.4.1 Geographical demarcation 4
   1.4.2 Labour Relations Act of 1995 4
   1.4.3 Effects of the Act on Small Business 5
1.5 DEFINITION OF SELECTED CONCEPTS 5
   1.5.1 Labour Relations 5
   1.5.2 Labour Legislation 6
   1.5.3 Small Business 7
<table>
<thead>
<tr>
<th>CHAPTER TWO</th>
</tr>
</thead>
<tbody>
<tr>
<td>LABOUR RELATIONS ACT: A GENERAL OVERVIEW</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1</td>
<td>INTRODUCTION</td>
<td>15</td>
</tr>
<tr>
<td>2.2</td>
<td>AN INTRODUCTION TO THE LABOUR RELATIONS ACT OF 1995</td>
<td>15</td>
</tr>
<tr>
<td>2.3</td>
<td>PURPOSE AND APPLICATION OF THE ACT</td>
<td>18</td>
</tr>
<tr>
<td>2.4</td>
<td>JOB SECURITY</td>
<td>22</td>
</tr>
<tr>
<td>2.5</td>
<td>LABOUR LAW AMENDMENTS</td>
<td>22</td>
</tr>
<tr>
<td>2.5.1</td>
<td>Bargaining Councils</td>
<td>23</td>
</tr>
<tr>
<td>2.5.2</td>
<td>Dismissals based on operational requirements</td>
<td>24</td>
</tr>
<tr>
<td>2.5.3</td>
<td>Extension of collective bargaining agreements</td>
<td>24</td>
</tr>
<tr>
<td>2.5.4</td>
<td>Probationary periods of employment</td>
<td>24</td>
</tr>
<tr>
<td>2.6</td>
<td>SUMMARY</td>
<td>26</td>
</tr>
</tbody>
</table>
# CHAPTER THREE

SMME PROFILE IN THE SOUTH AFRICAN ECONOMY: GROWTH, SIZE CONTRIBUTIONS AND TRENDS

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1</td>
<td>DEFINITION OF SMALL BUSINESS</td>
<td>27</td>
</tr>
<tr>
<td>3.2</td>
<td>THE ROLE OF THE SMALL BUSINESS SECTOR IN SOUTH AFRICA</td>
<td>29</td>
</tr>
<tr>
<td>3.3</td>
<td>RELATIVE ECONOMIC IMPORTANCE OF SMALL BUSINESS</td>
<td>31</td>
</tr>
<tr>
<td>3.3.1</td>
<td>Providing new jobs</td>
<td>32</td>
</tr>
<tr>
<td>3.3.2</td>
<td>Introducing innovation</td>
<td>38</td>
</tr>
<tr>
<td>3.3.3</td>
<td>Stimulating economic competition</td>
<td>39</td>
</tr>
<tr>
<td>3.3.4</td>
<td>Aiding big business</td>
<td>39</td>
</tr>
<tr>
<td>3.3.5</td>
<td>Regional analysis</td>
<td>40</td>
</tr>
<tr>
<td>3.4</td>
<td>MANAGING HUMAN RESOURCES IN SMALL FIRMS</td>
<td>41</td>
</tr>
<tr>
<td>3.5</td>
<td>LEASING EMPLOYEES</td>
<td>43</td>
</tr>
<tr>
<td>3.6</td>
<td>DEALING WITH LABOUR UNIONS</td>
<td>43</td>
</tr>
<tr>
<td>3.7</td>
<td>FORMALIZING EMPLOYEE-EMPLOYER RELATIONSHIPS</td>
<td>44</td>
</tr>
<tr>
<td>3.8</td>
<td>HIRING A HUMAN RESOURCES MANAGER</td>
<td>45</td>
</tr>
<tr>
<td>3.9</td>
<td>FUTURE DEVELOPMENT OF THE SMALL BUSINESS IN SOUTH AFRICA</td>
<td>46</td>
</tr>
<tr>
<td>3.10</td>
<td>SUMMARY</td>
<td>47</td>
</tr>
</tbody>
</table>
CHAPTER FOUR

EMPIRICAL STUDY, METHODS USED AND ANALYSIS OF DATA

4.1 INTRODUCTION 49
4.2 RESEARCH DESIGN 50
4.3 PLANNING THE EMPIRICAL STUDY 52
  4.3.1 Preliminary considerations 52
  4.3.2 The questionnaire 53
  4.3.3 Geographical spread of respondents 55
  4.3.4 Administering the questionnaire 56
  4.3.5 Timing and sequencing 57
4.4 DISCUSSION OF THE RESULTS OF THE STUDY 59
  4.4.1 Section A: Results of the distribution per sector 59
  4.4.2 Section B: Status of employees and membership of bodies 61
  4.4.3 Section C: Pre-1995 Labour Relations system 63
  4.4.4 Section D: Use of Labour Relations Act structures in dispute resolution 65
  4.4.5 Section E: Views on the effects of Labour Relations Act on small business 67
  4.4.6 Section F: Freedom of association and general protection 71
<table>
<thead>
<tr>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.4.7 Section G: Collective agreements and use of CCMA</td>
</tr>
<tr>
<td>4.4.8 Section H: General views/attitude on Labour Relations Act</td>
</tr>
<tr>
<td>4.5 SUMMARY</td>
</tr>
</tbody>
</table>

**CHAPTER FIVE**

**AN INTEGRATION OF THE FINDINGS OF THE EMPIRICAL SURVEY WITH THE REVIEW OF LITERATURE, SUMMARY, CONCLUSIONS AND RECOMMENDATIONS**

| 5.1 INTRODUCTION | 80 |
| 5.2 SUMMARY | 82 |
| 5.3 CONCLUSIONS | 84 |
| 5.4 RECOMMENDATIONS | 85 |

**REFERENCES**

| 89 |

**ANNEXURE 1**

| 93 |
LIST OF TABLES

Table 1  Small Business: Vital components of the Economy  28
Table 2  Estimated % sectoral contribution to GDP by size-class,  
        2000  32
Table 3  Contribution of SMME’s to total employment  34
Table 4  Estimated % employment by SMME’s per sector  36
Table 5  Provincial SMME profiles  41
Table 6  Distribution of questionnaires  54
Table 7  Geographical spread  55
Table 8  Distribution according to sectors  59
Table 9  Status of employees  61
Table 10 Membership of bodies (provided by the LRA)  62
Table 11 Pre-1995 Labour Relations System  64
Table 12 Use of Labour Relations Act structures in disputes
        Resolution  66
Table 13 Opinion on the functioning of CCMA  66
Table 14 Right to strike  68
Table 15 Experience of strike action  68
Table 16 Exercise of right to lock-out  68
Table 17 Existence of picketing rules  69
Table 18 Participation in Union activities  71
Table 19 Use of company premises  72
Table 20 Disputes about collective agreements  74
<table>
<thead>
<tr>
<th>Table</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table 21</td>
<td>Use of CCMA</td>
<td>75</td>
</tr>
<tr>
<td>Table 22</td>
<td>General views on Labour Relations Act</td>
<td>76</td>
</tr>
<tr>
<td>Table 23</td>
<td>Views on effects of Labour Relations Act on promotion of small businesses</td>
<td>77</td>
</tr>
</tbody>
</table>
CHAPTER 1

1.1 INTRODUCTION, DEFINITION, KEY CONCEPTS, PROBLEM STATEMENTS AND RESEARCH OUTLINE

South Africa still needs to enhance its entrepreneurial culture, seeing that there is a weakness in this area (Parsons 1999: 2). Many economists have argued that the critical importance of the small business sector, particularly with respect to its potential to create jobs, must still be fully recognised. Within the broad economic policy framework, more attempts must be made to develop this sector. It is against this background that, impediments and uncertainties that remain are investigated, and policy directives and programmes are recommended.

One of the challenges facing the South African economy, are the regulatory impediments that hamper the development of the small business development sector (Business Day 1999: 2). The 1994 National Small Business Development Strategy, provided for the financial and non financial support for smaller firms. The strategy also made provision for a review process that would identify inappropriate legislative and regulatory conditions that constrains the development of growth of small business. Regarding the effect of labour legislation on small business, Dludle (1999: 3) argues that a balance has to be reached between protecting worker rights and the ability of small
businesses to compete. The case of a blanket exemption of small business from labour law regime appears remote.

1.2 MAIN PROBLEM

Bendix (1996:121) says that through passage of the Labour Relations Act, within the new socio-political dispensation, the state is attempting to give further protection to employees and unions. All previous exclusions of employees from the ambit of Labour Relations Act have been removed. In the case of any conflict between the provisions of the Labour Relations Act and other acts (except the constitution), priority will be given to the provisions of this Act. The aim of this research is to identify the effects of this Act on small businesses. Another development is that the Department of Labour has introduced amendments to the Labour Relations Act. The Department of Labour (Labour Law Amendments : 2000) states that the objectives of the amendments are:

- Firstly address the unintended consequences of labour legislation;
- Secondly, ensure effective alignment of laws with changing labour market environment;
- Thirdly, increase the sensitivity of the legal framework to the imperative to create jobs;
• Fourthly, promote small business and improve labour market efficiency.

Based on the above the main problem arises as follows:

What are the effects of the Labour Relations Act of 1995 on the development of the small business sector in the Nelson Mandela Metropole?

1.3 SUB-PROBLEMS

In order to resolve the main problem (effects of the Act on small business), the following sub-problems have been identified:

a) What does literature identify in the main provisions of the Act as impediments constraining the development and growth of small business?

b) What are the major challenges that face the small business stakeholder community?

c) What are the main factors that led to the introduction of the Labour Law Amendments in 2000?
d) Has the Act specifically offered the promotion of the sector in the
Nelson Mandela Metropolitan area?

1.4 DEMARCATION OF THE RESEARCH

The demarcation of the research is intended to achieve the following
objectives:

• Firstly, there is a need to clarify in precise language, what must
  be achieved and how;

• Secondly, it is critically important to avoid ambiguities, and make
  the research project manageable.

1.4.1 Geographical demarcation:

The survey will be limited to organisations lying within the Nelson
Mandela Metropolitan Area. Small businesses that are located outside
this area will be excluded.

1.4.2 Labour Relations Act of 1995

The study will be limited to the impact of this Act on small businesses.
All other labour laws are excluded.
1.4.3 Effects of the Act on Small Business:

The following business sectors will be surveyed:

- Fishing;
- Manufacturing;
- Wholesale/retail;
- Catering (food and beverage);
- Tourism and hospitality;
- Stationery and printing;
- Transport;
- Building industry.

1.5 DEFINITION OF KEY CONCEPTS

In order to clarify certain key concepts these are defined below:

1.5.1 Labour Relations:

Bendix (1996: 3) defines labour relations as a relationship between people who work and those for whom they work. Because of the modern industrialised society, industrial relations have been marked by a growing polarisation between those owned and those who laboured. As a field of study, industrial relations placed emphasis on the institutionalisation of conflict by way of collective representation, collective bargaining, joint regulation and legislative constraints.
The analysis of the labour relationship, according to Bendix (1996: 4) contains two essential characteristics. These are:

- The labour relationship is a human relationship;
- The relationship is a distinctly unique relationship.

The relationship arises from the need for economic activity within society and from man’s need to work and to earn a living. The society in which we live is economically based. The greater part of society’s activities and institutions centre is the economy. For the purposes of this study, Labour Relations is seen as a system of collective representation, collective bargaining and regulation of the labour relationship.

1.5.2 Labour Legislation:

Bendix (1999: 17) argues that society cannot rely solely on custom and tradition to regulate the work relationship. Parties to the relationship might engage in destructive practices to the detriment of society at large. It is, therefore, necessary to establish a legal framework within which the labour relationship can be conducted. The law may establish machinery for the peaceful resolution of conflict.
between parties, delimit the rights of both parties and correct power imbalances which might exist (Bendix: 1996: 17).

1.5.3 Small Business:

According to the National Small Business Act (1996) “… the definition covers all sectors of the economy as well as all types of enterprises, and consists of two parts. The first defines the qualitative criteria, which relate to the ownership structure of the business. The second shows the sectors and sub-sectors of the economy along with the limits of employment, turnover and asset value determining size-classes. The limits are referred to as the quantitative criteria”. Hellriegel (1996: 145) says that the US government defines a small business as a company employing fewer that 500 people. A small-business owner, according to this definition is anyone who owns a major equity stake in a company with fewer than 500 employees.

In the South African business context, an enterprise must be a separate and distinct business entity and not part of a group of companies. A small business enterprise must be managed by its owner or owners. The enterprise can either be a natural person, a sole proprietorship or a partnership, or it can be a legal person. It is also evident that a distinction between size-classes (micro, very small, small, and medium enterprises) could be made (1998 Review: 40).
1.6 ASSUMPTIONS

It is assumed that the Labour Relations Act of 1995 had an impact on the operations of small businesses in the Port Elizabeth area and South Africa in general. It is also assumed that employees and employers are guided by the Labour Relations Act in their collective bargaining. This bargaining is aimed at determining wages, terms and conditions of employment and other matters of mutual interest. The other assumptions are that, the South African economy must grow in order to create more jobs and that the small business sector is targeted as a job creation sector.

Secondly, it is assumed that no study ever answers all the questions that can be asked about a particular subject. New research findings nearly always inspire even more research questions. Sometimes, the findings are surprising, or they conflict with existing theory, or with other research results.

1.7 SIGNIFICANCE/VALUE OF THE RESEARCH

The Labour Relations Act of 1995 is aimed at advancing economic growth, development, social justice, labour peace and the democratisation of the workplace. This, according to the proponent of the Act, will give effect to and regulate the fundamental rights conferred by Section 27 of the Constitution. The second consideration is that of
providing a framework within which employees and their trade unions, employers and their organisations can collectively bargain to determine wages and conditions of employment. On the other hand:

- Much has been said and written about the role of SMME’S in the SA economy;

- As unemployment rises in SA, focus has been given to the development of small business, as a job creation strategy;

- School curriculae and universities and technikons have been redesigned to promote entrepreneurship amongst the youth;

- Agencies such as Khula Enterprise Finance Ltd, Umsobomvu Youth Fund, Industrial Development Co-operation (EDC) and many others have been initiated to promote and assist financially small business;

- Both the Reconstruction and Development Programme and the Growth, Employment and Redistribution strategy advocate for the promotion of small businesses;

- At the same time, the labour unions have demanded the introduction of union-friendly legislation, which has an impact on both big business and small enterprises.
It is hoped that the research will advance knowledge in both the field of Labour Relations and Small Business in South Africa. The researcher will also identify **problems** in the implementation of the Act. An insight will be given on the **impact** of this legislation on small business.

However, it is expected that this investigation might contribute to research methodologies used in this area. The main question does have a potential to generate further research in the field of Labour Relations and promotion of the small business sector. Furthermore, the research of this question might find direct or indirect application.

### 1.8 RESEARCH DESIGN

Generally, the methodology section of the research proposal is a component that causes great difficulty to both the experienced and inexperienced researchers. According to Craig Higson-Simit (2000: 37), there is a very broad (and growing) diversity of methodologies available in the Social Sciences and Humanities. The main objective of the methodology section is to explain how the process of finding answers to the research question will be done.

- Visit to selected organisations
The research intends visiting organisations such as SACOB, NAFCOC, Ntsika Enterprise Promotion agency, Department of Trade and Industry, Trade Unions office and the Nelson Mandela Metro’s Small Business Unit.

In this section the broad methodology that will be followed in the study is described.

The research will consist of inter-related steps:

- **Literature study:**

  A comprehensive literature study of existing literature on labour legislation, employee and employer reactions to the passing of the Labour Relations Act, and its effects on small business will be conducted.

- **Questionnaire:**

  Based on the above a questionnaire will be developed, using information that has been gleaned from the literature study (discussed in Chapter 4).
• **Mail survey:**

The questionnaire will be used for the survey that will be conducted among small business leaders and employer organisations, to establish what **impact** has the Act had on the operations of their business. The reason for choosing small business leaders only is because the research has been demarcated not to cover big business.

• **Sample:**

The computerised database of the Port Elizabeth Regional Chamber of Commerce and Industry will be used to gain the names and addresses of a cross spectrum of small business in the Port Elizabeth area. A statistically significant random sample of all those that employ less than 50 employees will be used for the mail survey.

• **Statistical analysis of data:**

The interpretation and analysis of data will be determined in consultation with a statistician at the time the questionnaire is drawn up. The statistician will also assist with the consolidation of finding.

The following factors have been thoroughly considered:

- The **time** needed to complete the research;
• The **technical** skills needed;
• Financial/administrative capacity (transport, fax, telephone, secretarial assistance, etc).

### 1.9 RESEARCH LAYOUT

The research has been planned to include the following chapters.

**Chapter 1**
Introduction, problem statements, definition, key concepts and research outline

**Chapter 2**
A discussion of the Labour Relations Act

**Chapter 3**
A discussion on the Small Business Sector in South Africa

**Chapter 4**
Empirical Study and Research findings

**Chapter 5**
Conclusions and recommendations
1.10 SUMMARY

This chapter stated the main-problem, sub-problems and definitions of key concepts. It also highlighted the significance of the research as well as the outline of the study.

Chapter 2 will present a discussion on the Labour Relations Act, its provisions and the latest amendments of the year 2002.
LABOUR RELATIONS ACT : A GENERAL OVERVIEW

2.1 INTRODUCTION

In Chapter One, the concepts Labour Relations and Labour Legislation were discussed. In this chapter, an overview of the Labour Relations Act, its provisions and the 2002 Amendments will be discussed. The aim is to identify the elements of the Act that affected the development of the Small Business Sector.

2.2 AN INTRODUCTION TO THE LABOUR RELATIONS ACT OF 1995

The political and statutory variables in the macro-environment are linked to the influence the state exerts on the enterprise by means of legislation and regulations. These variables, in some cases, limit the activities of the various economic sectors.

Every enterprise has a responsibility to its employees. This responsibility is described in various pieces of legislation, including some aspects of the Labour Relations Act of 1995. The employee acquires bargaining power through the trade unions. Government’s involvement is seen in acts of parliament such as the Labour Relations
Act of 1995 whose effects on small businesses is the subject of inquiry is this investigation (Le Roux 1999: 59).

The power base of workers and trade unionists include labour legislation, specifically the Labour Relations Act of 1995, and access to legal institutions. Labour-intensive small firms depend on labour and this in turn is the key to the power of unions (De Beer 1993: 1). The impact of labour laws on the cost of labour is well documented. The increased cost of production as a result of new legislation has a potentially wide-ranging impact.

Firstly, it increases price levels because the increased cost would probably be passed onto the consumer. The real income of employees therefore declines.

Secondly, it reduces international competitiveness and causes a loss of markets and marketing opportunities.

Thirdly, it results in the substitution of labour by capital.

The net effect according to Barker (2002 : 162) is employment reduction at a higher rate than otherwise (if the economy is shrinking). With regard to the effect of a reduction in working hours on other macro-economic variable, Barker argues that this generally leads to higher inflation. This view is based on the assumption that a reduction
in working hours reduces competitiveness and effects negatively the balance of payments.

The concern around new labour legislation is expressed vividly in the 1998 Review of the State of Small Business in South Africa, published by Ntsika Enterprise Promotion Agency. According to this review, the major concern is that the cost of compliance with certain laws and regulations is disproportionately heavier on small businesses, compared with large ones.

On the basis of this analysis, the White Paper on the National Strategy for the development and promotion of small businesses emphasised the need to create an enabling regulatory environment for small business. A commitment by government to overhaul the regulatory framework is reflected in the Amendments of 2002. (1998 Review : 20)

In 1994, the African National Congress, supported by the Congress of South African Trade Unions and the South African Communist Party (SACP) took over as the majority party in government. Bendix (1996 : 101) says that having come to power by the vote of the previously oppressed, and having in its ranks many former trade unionists, the new government faced expectations from the organised workers. In 1995, the National Manpower Commission (NMC) and the National Economic Forum (NEF) disbanded, and were replaced by the National Economic and Labour Council (Nedlac). The intention was to ensure
that all stakeholders are consulted on economic, industrial relations and labour market policy. Secondly, this reveals the adoption of a **corporatist approach** by the state as Nedlac was recognised by the proposed legislation. This proposed legislation, the Labour Relations Act, represents a desire on the part of the government to balance power, create more certainty and promote co-operation between the parties (Bendix 1996 : 106).

### 2.3 PURPOSE AND APPLICATION OF THE ACT:

According to Government Gazette No 16861, the President has assented to Act No 66 of 1995: Labour Relations Act, 1995. The brief given to the task group responsible for drafting the new Labour Relations Act stipulated the following objectives:

- Give effect to government policy as reflected in the Reconstruction and Development Programme (RDP);

- Recognise organisational rights of trade unions and employer organisations;

- Promote and facilitate collective bargaining;

- Provide procedures for the resolution of disputes;
• Provide for a system of labour courts;

• Entrench the right to strike, amongst others.

The 1956 Act has now been replaced by an entirely new Act. It is apparent, according to Bendix (1996: 121) that the passage of the Act within the context of the new socio-political dispensation the state is attempting to give further protection to employees and unions. Of particular relevance to the study is the inclusion of certain categories of employees and employers who were previously excluded from the ambit of the 1995 Labour Relations Act. The study will be investigating the effects of this new development in the field of Labour Relations in South Africa.

With regards to the 1995 Labour Relations Act, mentioned above, there is a constant criticism against **Bargaining Councils**, not only in respect of their impact on the cost of labour, but also on introducing rigidities in the labour market. Unions, it is often argued, cause wages to be higher than in non-unionised situations (Barker 2000: 163). Some analysts put this differential at between 10% to 30%. Barker (2000: 163) states that employment was reduced by about 6.3% by the effects of unions raising wages. This is not surprising as the level of unionisation in South Africa is high by international standards, and very high by the standards of developing countries. This is one reason for
the wide spread impact that unions have on the labour market (Barker 2000: 167).

The role of legislation in strengthening unions cannot be ignored. This raises once again, the value of investigations such as the impact of labour legislation on the growth and vibrancy of the small business sector. Ideally, legislation should aim to achieve the correct balance between voluntarism and compulsion, and between individual rights and collective rights. It could be argued that labour legislation in South Africa has significantly reduced individual discretion regarding conditions of employment.

This has put much power in the hands of both unions and government. The influence of the unions, has been bolstered by the Labour Relations Act. To draw attention to this concern, Barker (2000: 663) regards the Labour Relations Act as a simple mechanism of redistribution from capital to labour. By this, he means taking the resources and power from business to the Unions. He further explains three important labour relations principles, ie:

- Voluntarism for all parties;
- Equality before the law for all parties;
- Non-rivalrous universal human rights.
It could also be argued that there are numerous examples in the labour policies in South Africa that do not fulfil these principles. Barker (2000: 663) states that examples of this are as follows:

- The unions have right of access to employer information without the employer enjoying a corresponding right of access to relevant union information;

- The right of unions to embark on sympathy strikes is permitted by the Act;

- Unions enjoy protection for socio-economic protest action;

- The employers are subject to anti-monopoly laws, but not unions.

This all explains the power put in the hands of the unions as part of the transformation of the labour relations system in South Africa. What does this mean to business? In the first instance, it means the present regulatory environment is not conclusive to economic growth and reduction of labour costs. It also means that more labour disruptions might be expected. Business, including small business, will continue to call for the creation of an enabling regulatory environment for the promotion of economic growth and sustainable employment.
2.4 JOB SECURITY

The Labour Relations Act provides extensive protection of employees against unfair dismissals both in terms of procedure and reasons for dismissals (Section 189). This stipulation makes it extremely difficult for employers to adjust to changing circumstances and creates additional disincentives for employers to hire employees. The amendments that are discussed below will make it more difficult for employers to retrench workers as an unreasonable long period of time (60 days) is required. The Commission for Conciliation, Mediation and Arbitration (CCMA) might be inundated with requests for facilitation. This is not good news particularly for the SMME sector. The question arises: What then will make the South African companies competitive, both locally and globally? What will make these companies to change quickly in a rapidly changing market environment?

2.5 LABOUR LAW AMENDMENTS

According to the Department of Labour, the review of Labour Laws was initiated in 1999. The Bills were tabled in parliament in 2001 and promulgated in February 2002 (http://www.labour.gov.za). What prompted the review of these laws is a sub-problem statement, that refers to the factors that led to the introduction of the Labour Law Amendments in 2000.
The government identified policy imperatives that needed to be addressed. These included the following:

- Create jobs;
- Promote and develop small businesses;
- Stimulate investment;
- Improve in application of Labour Relation Act;
- Sensitise legal framework – to the need for job creation.

### 2.5.1 BARGAINING COUNCILS

To a large extent SMME’s fall within the informal sector, and its workers will have access to the services and functions of the bargaining council. The Act makes provision for Bargaining Councils to promote collective bargaining at a sectoral level in a specific industry or service. Aspects that may be covered by Councils are: wages, benefits and working conditions. The main functions of a Council include the following:

- Monitor and enforce compliance with collective agreements;
- Councils may refer unresolved disputes with any provision of a collective agreement to arbitration;
- Parties may also refer disputes about the interpretation or application of a settlement to a Council.
The effects of the above provisions on small businesses are the subject of Chapter 3 and 4.

2.5.2 DISMISSALS BASED ON OPERATIONAL REQUIREMENTS

If an employer, employs 50 or less employees, the employer is obliged to follow the retrenchment procedure as set out in 5189 of the Labour Relations Act, as amended.

The intention of the thresholds in the amended Act is to exclude industrial legal battles concerning the need to retrench in small businesses.

2.5.3 EXTENSION OF COLLECTIVE BARGAINING AGREEMENTS

In respect of a collective agreement, the state could refuse to extend a collective agreement to one employer who is not a party to a bargaining council and who was not given an opportunity to make representations to the Bargaining Council.

2.5.4 PROBATIONARY PERIODS OF EMPLOYMENT

There is provision for an employer to dismiss an employee in the first six months of employment on the grounds of incapacity or
incompatibility. He/she is required to prove only that a fair procedure before dismissing the employee was followed.

It is assumed that these amendments are necessary to create jobs and promote small businesses. The question arises: Can these amendments succeed in sensitising the legal framework – to the need for job creation?

Although the central purpose of this investigation is to evaluate the effects of the Labour Relations Act on small businesses, attention must also be given to the influence of the other pieces of legislation on SMME’s. The point is that the growth of the small business sector depends on the impact of the following Acts:

- Property Rates Act;
- Promotion of Access to Information Act;
- The Competition Act;
- The Basic Conditions of Employment Act;
- By-laws and Regulations;
- The Skills Development Act.

A combination of factors such as business-friendly legislation; national SMME support programmes and good management is needed in order to achieve measurable growth in the small business sector. There will always be some aspect or a combination of aspects to improve or to be
improved, room for any improvement will never cease and the entrepreneur can make a major contribution to the much needed growth in the small business sector (Barker 1988: 17).

2.6 SUMMARY

In this Chapter, a brief outline of the Labour Relations Act, its purpose and applications, its provisions and the Labour Law Amendments has been given. The essential point of departure is to understand the Act, so that its effects on small business could be analysed. Chapter 3 will look at the Small Business Sector profile, its growth, size and contribution to the South African economy.
CHAPTER 3

SMALL BUSINESS SECTOR PROFILE: GROWTH, SIZE, CONTRIBUTIONS AND TRENDS

3.1 ESTABLISHING THE SIZE OF SMALL BUSINESS

In Chapter Two, a general overview of the 1995 Labour Relations Act was discussed. Secondly, the 2002 review of labour laws and the key labour law amendments were introduced. In this Chapter, a profile of the small business sector in terms of growth, size contributions and trends will be discussed.

Establishing a size as the standard to define small business is necessarily arbitrary, because countries adopt particular standards for particular purposes. Even the criteria used to measure the size of businesses vary. According to Longenecker et al (1997: 23), some size criteria are applicable to all industrial areas, while others are relevant only to certain types of business. Examples of criteria used to measure size are:

- Number of employees;
- Volume of sales;
- Value of assets;
- Insurance in force;
Volume of deposits.

The number of employees, is the one widely used criterion.

Examples of small firms are illustrated in Table 1 below:

<table>
<thead>
<tr>
<th>Industry</th>
<th>Examples of Small Firms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wholesale trade</td>
<td>Wholesale drug companies, Petroleum bulk stations</td>
</tr>
<tr>
<td>Construction</td>
<td>General building contractors, Electrical contractors</td>
</tr>
<tr>
<td>Retail trade</td>
<td>Hardware stores, Restaurants</td>
</tr>
<tr>
<td>Services</td>
<td>Travel agencies, Beauty shops</td>
</tr>
<tr>
<td>Finance, insurance, and real</td>
<td>Local insurance agencies, Real estate brokerage firms</td>
</tr>
<tr>
<td>estate</td>
<td></td>
</tr>
<tr>
<td>Mining</td>
<td>Sand and gravel companies, Coal mines</td>
</tr>
<tr>
<td>Transportation, communication,</td>
<td>Taxicab companies, Local radio stations</td>
</tr>
<tr>
<td>and utilities</td>
<td></td>
</tr>
<tr>
<td>Manufacturing</td>
<td>Bakeries, Machine shops</td>
</tr>
</tbody>
</table>


Table 1 illustrates the contribution made by small business in many sectors of the economy. Secondly the table means that the small firms operate in all industries, although their nature and importance differ widely from industry to industry. It is Longenecker’s et al review (1997:24) that consideration of the economic contribution of the small business sector, requires identifying the major industries and noting the types of small firms that function in these industries. The designing of
the questionnaire (particularly Question 1) has been influenced by the information stated above. Note should be taken that Question One deals with the industry sectors mentioned in Table 1.

### 3.2 The role of the Small Business Sector in South Africa

The 1998 review of the state of small business in South Africa (Ntsika Enterprise Promotion Agency 1998:11) argues that the role played by small businesses is being increasingly recognised the world over. The potential of small business to create employment has caused governments in many countries to begin to give the small business more attention. Statistics show that the sector, in 1997, absorbed nearly 57% of the people employed in the private sector, and contributed 42% of formal total Gross Domestic Product (GDP).

The goals of the Small Business Promotion Strategy, according to the Department of Trade and Industry (DTI) are the following:

- Employment creation;
- Poverty alleviation;
- Income redistribution;
- Economic growth and development;
- Democratisation of economic participation;
- Promotion competition.
What is the purpose of the National Small Business Regulatory Review? The Department of Trade and Industry views the Review as an element of the National Small Business Strategy. The broad aims of the Review are:

a) To change the overall culture of regulations;

b) To make compliance of Labour Relations Laws easier for small businesses;

c) To provide proposals for the adjustment of legislation, practices and other measures which impede the development of small businesses;

d) To conduct research and review legislation and regulations in areas of labour, by-laws, taxation and finance.

In conclusion, research literature on small business in South Africa, indicates that:

- Firstly, developing small business strategy cannot be done in a vacuum. The process should be part of social and employment policy development.

- Secondly, the interests of small business owners do not always coincide with those of the society as a whole. It might be in the
interests of the small business owner to deregulate the labour market. But for society, deregulation might result in excessive social polarization.

- Thirdly, the small business sector will increase its relative significance in the economy as young adults, increasingly unable to find jobs in large businesses, resort to self-employment.

Also, the continuing down-sizing in both the public sector and large firms, as well as privatisation, will force many retrenched persons to take up income-generating activity in the small business sector. The opportunities in South Africa’s tourism sector are immense and largely untapped (Review 1998:74).

### 3.3 RELATIVE ECONOMIC IMPORTANCE OF SMALL BUSINESS

Small firms exist in each major industry, although they may be merely on the fringe of some industries. The question then is this: “What percentage of the economy’s total output of goods and services comes from small business?” Table 2, illustrates the contributions of the various sectors to the Gross Domestic Product (GAP) of South Africa.
Table 2: Estimated % sectoral contribution to GDP by size-class, 2000

<table>
<thead>
<tr>
<th>Sector</th>
<th>Micro</th>
<th>Small</th>
<th>Medium</th>
<th>Large</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture, forestry and fishing</td>
<td>4.1</td>
<td>8.7</td>
<td>43.7</td>
<td>43.5</td>
<td>100</td>
</tr>
<tr>
<td>Mining and quarrying</td>
<td>1.0</td>
<td>1.7</td>
<td>2.6</td>
<td>94.7</td>
<td>100</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>5.3</td>
<td>7.4</td>
<td>21.0</td>
<td>66.3</td>
<td>100</td>
</tr>
<tr>
<td>Construction</td>
<td>3.1</td>
<td>35.6</td>
<td>12.0</td>
<td>49.1</td>
<td>100</td>
</tr>
<tr>
<td>Trade, catering and accommodation</td>
<td>2.3</td>
<td>23.4</td>
<td>17.1</td>
<td>57.2</td>
<td>100</td>
</tr>
<tr>
<td>Transport, storage and communication</td>
<td>7.1</td>
<td>18.5</td>
<td>20.3</td>
<td>54.1</td>
<td>100</td>
</tr>
<tr>
<td>Community, social and other personal services and finance and business services</td>
<td>14.9</td>
<td>12.9</td>
<td>2.9</td>
<td>69.3</td>
<td>100</td>
</tr>
<tr>
<td>Total</td>
<td>5.8</td>
<td>13.9</td>
<td>15.0</td>
<td>65.2</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Ntsika Annual Review (2001: 41)

Table 2, above identifies two significant factors. Firstly, more than 50% of the contribution of the Agriculture, Forestry and Fishing Sector come from the micro, small and medium enterprises. Secondly, in the Construction sector, only 49.1% was contributed by the large firms. A significant contribution (more than 40%) by the Trade, Catering, Accommodation, Transport and Communication is also evident.

It is also possible to compare the number of employees who work in small firms with the number of employees who work in large firms. This is reflected in Tables 3 and 4 below.

### 3.3.1 PROVIDING NEW JOBS

Small businesses provide many of the new job opportunities needed by a growing population. There is evidence, indeed, that small firms
create the lion’s share of new jobs. Sometimes adding jobs while large firms are downsizing and laying off employees. Small firms that add new jobs soon become medium or large firms.

In the context of SA’s current massive unemployment and resultant crime, this is a major policy issue. There is a general understanding that the small business sector should be encouraged, although there is little agreement on how to do this (Business Day 2000: 15). The creation of a conducive environment for the growth of this sector could include, amongst others, the following measures:

- An enterprise investment scheme through which wealthy taxpayers are encouraged to invest in small companies;

- A venture capital trust scheme, giving similar tax relief for investors involved in small enterprises promotion.

According to the Ntsika Enterprise Promotions Agency’s annual review of 2001, the SMME sector in South Africa accounts for over 50% of total employment (see Table 3 below). This sector of the economy has been targeted by the State for the following rationale:

- As means of stimulating economic growth;
• As a vehicle for redistribution of wealth and attaining more equitable growth;

• As a means to address rising unemployment, since the large corporation’s demands for labour does not increase in proportion to their growth;

• The SMME sector allows for more competitive markets;

• They require little or no skills or training, workers learn skills on the job;

• The role of this sector in technical and other innovation is vital for many of the challenges facing South Africa’s economy.

Table 3 below, indicates the estimated contribution of the SMME sector to employment:

Table 3 : Contribution of SMME’s to total employment

<table>
<thead>
<tr>
<th>Size-class</th>
<th>% of total employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Survivalist</td>
<td>2.2</td>
</tr>
<tr>
<td>Micro (0)</td>
<td>3.5</td>
</tr>
<tr>
<td>Micro (1 – 4)</td>
<td>6.5</td>
</tr>
<tr>
<td>Very Small</td>
<td>13.0</td>
</tr>
<tr>
<td>Small</td>
<td>15.7</td>
</tr>
<tr>
<td>Medium</td>
<td>13.0</td>
</tr>
<tr>
<td>Large</td>
<td>46.1</td>
</tr>
</tbody>
</table>

Source: Ntsika Annual Review (2001 : 41)
This becomes very important in light of the decrease in formal employment. The small business sector has absorbed workers who have been retrenched from large corporations and the public sector. SMME's play an important role both in terms of job retention and job creation.

A deduction could be made that the continued advocacy for small business development, increased state budget allocations and consolidation of support services for the sector might improve the figures in Table 3 above. Longenecker et al (1997 : 29) concurs with this view by stating that small businesses provide many of the new job opportunities needed by a growing population. In the context of South Africa’s current massive unemployment and resultant crime, this is a key policy question to do What? The challenge is to make South Africa a new small business Mecca and through this create work for the unemployed and the school leavers (Venter 2002 : 15).

A society with a vibrant entrepreneurial spirit is an economically healthy society. Such a spirit is usually visible through the role and importance of the micro, small, and medium enterprises. The contribution by SMME sector is reflected in Table 4 below:
Table 4: Estimated % employment by SMME’s per sector

<table>
<thead>
<tr>
<th>Sector</th>
<th>% of total employment</th>
<th>SMME Employees</th>
<th>% of SMME employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture, forestry and fishing</td>
<td>70.3</td>
<td>1048555</td>
<td>20.0</td>
</tr>
<tr>
<td>Mining and quarrying</td>
<td>3.7</td>
<td>31733</td>
<td>0.6</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>44.8</td>
<td>925510</td>
<td>17.7</td>
</tr>
<tr>
<td>Construction</td>
<td>64.7</td>
<td>459407</td>
<td>8.8</td>
</tr>
<tr>
<td>Wholesale trade</td>
<td>40.7</td>
<td>201696</td>
<td>3.7</td>
</tr>
<tr>
<td>Retail Trade (including motor trade)</td>
<td>65.7</td>
<td>1082869</td>
<td>20.7</td>
</tr>
<tr>
<td>Catering and accommodation</td>
<td>71.1</td>
<td>196549</td>
<td>3.8</td>
</tr>
<tr>
<td>Transport, storage and communication</td>
<td>60.4</td>
<td>203277</td>
<td>3.9</td>
</tr>
<tr>
<td>Finance and business services</td>
<td>52.5</td>
<td>546384</td>
<td>10.5</td>
</tr>
<tr>
<td>Community, social and other personal services</td>
<td>69.7</td>
<td>532756</td>
<td>10.2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>53.9</strong></td>
<td><strong>5228706</strong></td>
<td><strong>100.00</strong></td>
</tr>
</tbody>
</table>

Source: Ntsika Annual Review (2001: 42)

Parsons (1998: 5) states that most employment growth in many countries, has come from new and small enterprises. Parsons argued that to create jobs, the policy framework should reflect the needs of these businesses. In some respects, smaller businesses have special needs. In particular, small businesses require a high degree of flexibility in the operation of their businesses in order to ensure their survival. The extent to which aspects of current labour legislation are not perceived by business to be employment-friendly should be a subject of continuous investigation. Ultimately, according to Parsons, job creation is the product of economic growth. Economic growth, he adds, is the result of investment – both domestic and foreign. Hence the need for continued emphasis on “investor-friendly policies”. (Parsons 1999: 2–4). Parsons’ economic logic could be reflected in the following process:
The above diagram explains the interdependence of investment, economic growth, job creation and alleviation of poverty.

The current focus on unemployment provides an opportunity to examine its causes and to propose some sustainable solutions. According to Parsons (1998: 2), the international and local trends appear to be indicating that there are key pillars for sustainable employment strategy such as the following:

- Sound and credible macro-economic policies which create employment-friendly environment;

- Strengthening a culture of entrepreneurship and enterprise;

- Promoting small and medium size business;
• A labour market regulatory environment that strikes a balance between flexibility and security;

• Investment in human capital including training and education.

Labour market rules and regulations can either help or hinder the better utilization of labour resources, an effective labour market and labour relations system is a central requirement for growth and employment.

In most countries, argued Parsons (1999: 4) most employment growth has come from new and small enterprises. Small businesses are particularly vulnerable to macro-economic volatility and are hardest hit by labour market rigidities.

3.3.2 INTRODUCING INNOVATION

Many scientific breakthroughs have originated from within small organisations. Examples of new products, created by small firms during the twentieth century are, amongst others the following:

• Photocopiers;
• Insulin;
• Power steering;
• Colour film;
• Vacuum tube;
• Penicillin.

Studies of innovation have shown the greater effectiveness of small firms in research and development. (Longenecker et al 1997 : 29-30)

3.3.3 STIMULATING ECONOMIC COMPETITION

When producers consist of only a few big firms, the customer is at their mercy. Big firms may set high prices, withhold technological developments, exclude new competitors or abuse their position of power. If competition is to have a cutting edge, there is need for small firms (Longernecker et al 1997 : 31).

Economic competition, in this instance refers to a situation in which businesses vie for sales. The number of competitors (including the small business sector) provides the customer with choices, thereby promoting the dynamic nature of the market system. It is partly on these basis that the business leaders argue for a flexible regulatory environment, as discussed in Chapter Two.

3.3.4 AIDING BIG BUSINESS

Some functions are more expertly performed by small business and this enables small firms to contribute to the success of larger ones.
According to (Longecker et al 1997 : 32) the three functions that small business can often perform more efficiently than big business are:

- The distribution function;
- The supply function;
- The service function.

Few large firms find it desirable to own wholesale and retail outlets. Small businesses carry out the distribution function for such products as toiletries, books, food items, office supplies, clothing, tyres, furniture, etc. The small firms play the role of linking customers and producers at a wholesale or retail level (Longenecker et al 1997 : 33).

In performing the supply function, small businesses act as suppliers and subcontracts for large firms. This relationship is recognised by large firms through the use of such terms as “partnership” and “strategic alliance” (Longenecker et al 1997 : 33).

In addition to supplying services to large corporations, small firms provide services to customers of big business.

**3.3.5 REGIONAL ANALYSIS**

Table 5 below, reflects inequalities in terms of economic activity and poverty between provinces. Gauteng records the greatest GDP per
capita, followed, in descending order of magnitudes, by the Western Cape.

Table 5: Provincial SMME profiles

<table>
<thead>
<tr>
<th>Province</th>
<th>SMME's</th>
<th>Number</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gauteng</td>
<td></td>
<td>414,166</td>
<td>38.4</td>
</tr>
<tr>
<td>Kwa-Zulu Natal</td>
<td></td>
<td>198,749</td>
<td>18.4</td>
</tr>
<tr>
<td>Western Cape</td>
<td></td>
<td>144,594</td>
<td>13.4</td>
</tr>
<tr>
<td>Eastern Cape</td>
<td></td>
<td>94,253</td>
<td>8.7</td>
</tr>
<tr>
<td>North West</td>
<td></td>
<td>56,117</td>
<td>5.2</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td></td>
<td>53,636</td>
<td>5.0</td>
</tr>
<tr>
<td>Limpopo Province</td>
<td></td>
<td>49,986</td>
<td>4.6</td>
</tr>
<tr>
<td>Free State</td>
<td></td>
<td>49,335</td>
<td>4.6</td>
</tr>
<tr>
<td>Northern Cape</td>
<td></td>
<td>18,791</td>
<td>1.7</td>
</tr>
<tr>
<td><strong>Total/Average for SA</strong></td>
<td>1,079,627</td>
<td>100</td>
<td></td>
</tr>
</tbody>
</table>

Source: Ntsika Annual Review (2001:49)

From the discussion above and Table 5, it is evident that there are huge inequalities in terms of economic activity and poverty between Provinces. It is worth noting that the demarcation of the research is the Nelson Mandela Metropole which is generally regarded as the economic engine of the Eastern Cape. Table 5 indicates that this Province has 94,253 or 8.7% of SMME distribution. This table explains not only provincial SMME profiles, but also the levels of unemployment and poverty in the Province.

3.4 MANAGING HUMAN RESOURCES IN SMALL FIRMS

This brief discussion deals with the general linkage between small firms and labour legislation. It is often said that to be effective the
small firms should regard employees as valuable business resources. Although small firms cannot duplicate the personnel programmes of big firms, they can develop approaches suitable for a small number of employees on their payrolls.

Employees affect profitability in many ways. In most firms, the attitudes of salespeople and their ability to serve customer needs, directly affect sales revenue. Payrolls are, in most cases, the largest expense category for most businesses, having a direct impact on the bottom line (Longenecker et al 1997: 409).

Special issues in Human Resources Management that has direct relevance to this research are leasing employees, dealing with unions, formalizing employee-employer relationships, and hiring a human resource manager. In the SA labour relations system, these issues are all regulated by many acts, including the 1995 Labour Relations Act.

The dynamic relationship between Labour legislation and the Small Business Sector is stated by de Beer (1993:1) as follows: “The small business leaders should acquire the necessary industrial relations knowledge so that they can deal effectively and successfully with labour relations – related issues. This knowledge of labour relations will enhance labour peace and economic growth in their businesses. Good labour relations might contribute towards promotion of efficiency in their organisations”.
3.5 LEASING EMPLOYEES

Leasing equipment or property has long been an accepted alternative to buying it. According to Longenecker et al (1997: 409), leasing employees has become a common alternative to employing them directly. A note of caution pertains to the regulatory environment in South Africa. These leased or rented employees are protected by labour legislation and they do have labour rights enjoyed by other employees.

3.6 DEALING WITH LABOUR UNIONS

Most entrepreneurs prefer to operate independently and to avoid unionisation (Longenecker et al 1997: 410). Indeed, as this research is going to show, most small businesses are not unionised. In general, unions typically concentrate their primary attention on large companies.

The need to work with a union, formalises and to some extent, complicates the relationship between the small firm and its employees. If the employees wish to bargain collectively, the Labour Relations Act requires the employer to participate in such bargaining. In some cases, the demand for labour union representation may arise from employee’s dissatisfaction with the work environment and employment relationships. By following enlightened human resources policies, the
small firm can minimise the likelihood of unionisation. (Longenecker et al 1997: 411).

3.7 FORMALIZING EMPLOYEE-EMPLOYER RELATIONSHIPS

As small firms grow, it becomes difficult to manage them effectively without some system for regulating employer-employee relationships. Growth then, produces pressures to formalize personnel policies and procedures. (Longenecker 1997: 410)

One way to formalize employer-employee relationships, is to prepare a personnel policy manual or employee handbook based on the relevant labour laws. This can also provide consistency of management decisions affecting employees. More specifically, such an employee handbook, usually cover topics such as training, compensation, vacations, grievances, and discipline.

Nearly all businesses have legal problems. In dealing with labour legislation, small entrepreneurs lack the services of personnel with highly specialized management skills. Nevertheless, they possess the ability to cope with a variety of challenges, such as competition, access to markets, limited capacity to influence public policy and financial management skills (Broom 1966: 14 – 15).
Although the exclusion of industrial action concerning the need to retrench in small business is limited, it does point to the need to make labour laws more flexible. A certain level of flexibility might accommodate the special needs of the sector.

3.8 HIRING A HUMAN RESOURCES MANAGER

As it grows in size, the small firm's personnel problems will increase in both number and complexity. Small firms, generally, cannot afford a full-time specialist to deal with personnel problems. This raises a fundamental question which is at the core of this investigation: Does the small business sector in South Africa have the capacity to implement the various requirements of the Labour Relations Act.

Putting it differently, does South Africa need more amendments to this Act and others to improve the growth and vibrancy of the small business sector?

Until a human resources manager is hired, the owner-manager typically functions in that capacity. Some conditions such as the high labour turnover rate, union representation of employees, and a substantial number of employees could favour the appointment of a human resources manager in small business (Longenecker et al 1997: 412)
3.9 FUTURE DEVELOPMENT OF THE SMALL BUSINESS SECTOR IN SOUTH AFRICA

In the South African context, the development and promotion of the small business has been one of the Government’s major policy objectives in the 1990’s. Support for this sector is essential to the development of an emerging economy. The white paper for small business development and the Small Business Development Act of 1996 identified access to finance, capacity building and the regulatory framework as key variables to be addressed in order to achieve faster growth in the SMME sector. Different strategies, are needed for the different enterprise categories that constitute the SMME sector. Very small, small and medium enterprises have very different needs and therefore need targeted support programmes.

Harper (1987: 1 – 10) concludes by asking a few critical questions. These are as follows:

- Is there a real choice between large and small enterprises?
- Are large or small businesses the more profitable?
- What role can large business play in assisting smaller ones?
- Is it possible to generalise about the problems of small businesses?
- How can Government help small-scale enterprises?
The first most important task according to Harper (1987: 9) is to modify as many as possible of the various official regulations, procedures and policies which inadvertently damage the interests of small business. The most obvious people to monitor and protect the interests of small business are the owners of the businesses themselves, through their associations. Large businesses and other interest groups are represented by their associations. It is the central responsibility of an organisation of small businesses to represent their interests.

3.10 SUMMARY

In this Chapter, an attempt was made to give a profile of the small business sector. From the above, it is evident that the small business sector is operating in all sectors of the economy. The sector is making a significant contribution to job creation, to the GDP, to economic competition and to the growth of big business. This Chapter also provided a provincial profile of SMME’s in South Africa.

Furthermore, an indication of future government initiatives in this sector is given. To conclude the discussion on small business, mention must be made that the growing participation of small firms in international trade had caused a modification of the traditional image of small businesses as strictly domestic. As the volume of international business had grown, small businesses have become increasingly
involved in the global market. Indeed, the global reach of the small business sector has been evidently confirmed.

In the next chapter the empirical study, methods and analysis of findings are discussed.
CHAPTER 4

EMPIRICAL STUDY, METHODS USED AND ANALYSIS OF DATA

4.1 INTRODUCTION

This chapter serves to provide a description of the empirical study, methods used and analysis of data. The description of the empirical study will include research design, planning the study and comments on the questionnaire.

An empirical study typically consists of the following:

- Problem statement and sub-problems;
- Literature survey (prior research);
- Research method;
- Data analysis and findings;
- Conclusions and recommendations.
In Chapter 1, the main problem and sub-problem, the demarcation of the research, assumptions and overview of relevant literature was discussed. The aim of this chapter is to discuss the systematic, controlled and empirical method that was used in the investigation. Cohen (1989: 1) states that man has long been concerned to come to grips with his environment and to understand the nature of the phenomena it presents to his/her senses.

The means by which he sets out to achieve these ends may be classified into three broad categories: experience, reasoning and research. These categories, according to (Cohen 1989: 5) are not mutually exclusive. Indeed, they are complementary and overlapping (Cohen 1989: 5).

4.2 RESEARCH DESIGN

Research is distinguished from experience and reasoning by its systematic, controlled and empirical approach in its operations. The researcher must always subject his notions to the court of empirical inquiry and test. The subjective belief ... must be checked against objective reality. Research is also self-correcting (Cohen 1989: 5).

Before a discussion on the actual research design followed in the investigation, it is important to examine briefly the tenets of scientific faith, that is the kinds of assumptions held by researchers. Firstly,
there is the assumption of **determinism**. According to (Cohen 1989: 5) determinism implies that events have causes, that events are determined by circumstances. Science then proceeds on the belief that there are causal links that must be uncovered and understood. This suggests that the researcher must explain events in terms of their antecedents. For example, what causes the high unemployment rate in South Africa? Are there impediments in the Labour Relations Act that constrain the development and growth of the small business? What is the link between the amendments of the Act and the growth of the small business sector?

The second assumption is that of **empiricism**. This theory is based on the belief that a hypothesis depends on the nature of the empirical evidence for its support. Cohen (1989: 13) identifies five steps in the process of empirical science:

- Experience;
- Classification;
- Quantification;
- Discovery of relationships;
- Approximation to the truth.

These steps, once again, confirms the central purpose of a scientific enquiry, which is the search for truth. It is hoped that this research project will contribute towards answering the main problem: **The effects of the Labour Relations Act on the growth and**
development of the small business sector in the Nelson Mandela Metropolitan Municipality.

4.3 PLANNING THE EMPIRICAL STUDY

The term “methods”, refers to a range of approaches used in research to gather data which are to be used as a basis for inference and interpretation, for explanation and prediction (Cohen 1989 : 20).

4.3.1 PRELIMINARY CONSIDERATIONS

The first prerequisite to the research design was to clarify the specification of the population to which the enquiry is addressed. This decision normally affects the sampling and resource allocation that the researcher must address. In chapter one, an explanation is given about the geographical demarcation of the research (which is the Nelson Mandela Metropole). The target audience being the small business sector in the Metro. The annual report (2001) of Ntsika Enterprise Promotion Agency indicates that South Africa has an estimated 1 079 627 small and medium enterprises and the Eastern Cape’s share is 94 253 (see Table 5 in Chapter 3).

The second consideration in research planning and design is the resources available. Sample surveys are labour intensive, the largest single expenditure being the fieldwork where costs arise out of
interviewing time, travel time and transport, claims of the interviewers and training and supervising the panel of interviewers. The construction of the questionnaire, piloting, printing together with computer programming all were very demanding, financially and physically. The geographical areas covered were Uitenhage, Despatch and Port Elizabeth. The economic sectors included the following: fishing; manufacturing; wholesale/retail; catering; tourism and hospitality; transport; building industry and stationery and printing.

4.3.2 THE QUESTIONNAIRE

Cohen (1989 : 106) states that an ideal questionnaire is clear, unambiguous and uniformly workable. Its design must minimise potential errors from respondents. The intention is to elicit answers as close as possible to the truth. In the construction of the questionnaire, efforts were made to avoid complex questions, leading questions, irritating questions and open-ended questions.

In the questionnaire construction process, the following key questions guided the content of the questions:

- Is the question necessary?
- Are several questions needed on the subject matter?
- Is the question content biased or loaded in one direction?
- Will the respondents give the information that is asked for?
Can the question be misunderstood?

Cohen (1989: 111) is of the opinion that a good response rate to a postal questionnaire is easily secured when the appearance of the questionnaire is easy and attractive. Furthermore a large questionnaire with plenty of space for questions and answers is more encouraging to respondents. It is also vitally important to include questions that are not intimidating and invite participation.

Finally, a brief note at the very end of the questionnaire was included to thank the respondent for his participation and to solicit final comments. Prior to conducting the pilot study, the questionnaire was checked by the promoter and the necessary adjustments were made.

The final results with regards to the distribution of questionnaires were as follows:

Table 6 : Distribution of questionnaires

<table>
<thead>
<tr>
<th></th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distributed</td>
<td>120</td>
<td>100</td>
</tr>
<tr>
<td>Collected</td>
<td>97</td>
<td>89</td>
</tr>
</tbody>
</table>

Source: Results obtained from analysis of distribution and collection of questionnaires
In Chapter 1, the demarcation of the research was discussed. This means that the limits of the study were specified. From a geographical point of view, the study was confined to the Port Elizabeth, Uitenhage and Despatch region.

Table 7 below, represents the results of the successful collection of completed questionnaires.

Table 7: Geographical Spread

<table>
<thead>
<tr>
<th>Region</th>
<th>N</th>
<th>PERCENTAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Port Elizabeth</td>
<td>67</td>
<td>69.1</td>
</tr>
<tr>
<td>Uitenhage</td>
<td>16</td>
<td>16.5</td>
</tr>
<tr>
<td>Despatch</td>
<td>9</td>
<td>9.3</td>
</tr>
<tr>
<td>in all 3 areas</td>
<td>3</td>
<td>3.1</td>
</tr>
<tr>
<td>Port Elizabeth and Uitenhage</td>
<td>2</td>
<td>2.1</td>
</tr>
<tr>
<td>Port Elizabeth and Despatch</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Uitenhage and Despatch</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>97</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Results obtained from analysis collected questionnaires

As expected, Table 7 illustrates that the largest majority of respondents are in Port Elizabeth (67), followed by Uitenhage (16) and finally by Despatch (9). Very few (3) small businesses are operating in all the three areas of the Metropolitan. It is also interesting to note that not a single one operates in Despatch and either Uitenhage and Port Elizabeth.
It could be mentioned that more time and resources were spent on the distribution and collection of questionnaires. In some cases the fieldworkers had to visit a potential respondent five times. This is how the total figure of 97 returns was achieved.

4.3.4 ADMINISTERING THE QUESTIONNAIRE

The following organisations assisted in compiling a list of potential respondents:

- Economic Development Unit of the Nelson Mandela Metropolitan;
- Ntsika Enterprise Promotion Agency;
- Permac;
- PE Chamber of Commerce and Industry;
- Department of Trade and Industry.

The compilation of applicable addresses of small business was guided by the purpose of the study and the nature of the population under scrutiny. A minimum number of 50 respondents was the target to enable the use of some form of statistical analysis on the data. This sample size decision was made prior to the actual research being conducted.

The questionnaire had a covering letter. This may be seen in Annexure 1. The purpose of the covering letter was to:
• Indicate the aim of the survey;
• To convey to the respondents its importance;
• To assure him/her of confidentiality;
• To encourage his reply.

With these intentions in mind, the appeal in the covering letter was tailored to suit the target audience ie small business sector. The name of the researcher, and his institution (PE Technikon) appeared at the bottom of the covering letter. Finally the covering letter was kept short (one page) to ensure that it is effective.

4.3.5 TIMING AND SEQUENCING

A flow chart was prepared to help planning the distribution and collection of questionnaires. The idea of a flow chart was considered to also help maximise response rates and thereby reduce non-response rates. The various parts of the flow chart are reflected below:
Figure 2: A flow chart for planning a questionnaire distribution strategy

Prepare addresses  Prepare covering letters  Prepare persuasion tactics

Insert covering letter

Delivering of questionnaires (10 per day)

Telephonic reminders (10 per day)

Collection of completed questionnaires (target was 10 per day)

Dealing with non-responses (10 days)

Prepare final response summaries  Send letter of thanks to all respondents

Transfer questionnaires to data preparation staff

Source: Adapted from Cohen (1989: 115)
As indicated in the flow chart above, the key pillars of the plan were time management, regular communication with the fieldworkers and a co-operative relationship with the potential respondents.

4.4 DISCUSSION OF THE RESULTS OF THE STUDY

4.4.1 SECTION A: RESULTS OF THE DISTRIBUTION PER SECTOR

With regard to the distribution of respondents according to sectors of industry in which they operate, a relatively small majority (32) are in the wholesale/retail business.

Table 8: Distribution according to sectors

<table>
<thead>
<tr>
<th>Sector</th>
<th>N</th>
<th>PERCENTAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fishing</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>15</td>
<td>15.5</td>
</tr>
<tr>
<td>Wholesale/Retail</td>
<td>32</td>
<td>33</td>
</tr>
<tr>
<td>Catering</td>
<td>12</td>
<td>12.4</td>
</tr>
<tr>
<td>Agriculture</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Tourism</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Stationery</td>
<td>3</td>
<td>3.1</td>
</tr>
<tr>
<td>Transport</td>
<td>1</td>
<td>1.0</td>
</tr>
<tr>
<td>Building</td>
<td>2</td>
<td>2.1</td>
</tr>
<tr>
<td>Others</td>
<td>30</td>
<td>30.9</td>
</tr>
<tr>
<td>Total</td>
<td>97</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Results obtained from analysis sector distribution

As indicated in Table 8 (Sector distribution) none of the respondents operate in the Agriculture and Tourism sectors, which indicates that more attention should possible be paid to these sectors in the process.
of promotion and development of the small business sector in Metropolitan.

A significant number of respondents (30.9 percent) indicated that their businesses are operating in sectors that are not covered by the questionnaire. Examples of these “other” sectors mentioned are listed below:

- Postal Agency;
- Cellphone repairs;
- Funeral services;
- Gardening services;
- Car repairs;
- Fitment centre;
- Liquor business;
- Fruits and vegetables;
- Hiring clothes;
- Estate agency;
- Dry clean and shoe repairs;
- Door installation;
- Butchery;
- Florist.

In concluding this section, mention should be made that:
• Firstly, the services or products listed above as “others” could be grouped with one or two main sectors such as wholesale/retail.

• Secondly, the small business organisations cover a wide range of products and services, sometimes difficult to categorise into sectors.

• Thirdly, the wholesale/retail together with the “other” category constitutes more than 60 percent of the responses.

4.4.2 SECTION B: STATUS OF EMPLOYEES AND MEMBERSHIP OF BODIES

In this section, the respondents were asked to indicate whether their employees are permanent, part-time or temporary. The idea was to establish the status of employees as this has a bearing on some aspects of the Labour Relations Act. Table 9 is a summary of the results with regard to the status of employees.

Table 9: Status of employees

<table>
<thead>
<tr>
<th>Status</th>
<th>Frequency</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent (Full-time)</td>
<td>90</td>
<td>93</td>
</tr>
<tr>
<td>Temporary (Full-time)</td>
<td>4</td>
<td>4.1</td>
</tr>
<tr>
<td>Contract</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Casual</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>97</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Results of employee status analysis
In this section the overwhelming majority of respondents (93 percent) indicated that their employees are permanent and full-time. There seems to be a confusion in decoding on whether an employee is permanent (full-time) or part-time or casual. This is partly a reflection of ignorance about relevant legislation in this regard, that is definition of the terms from a legal perspective.

In case of membership of organisations, both employer and employee organisations, the respondents were asked to indicate membership of bodies, provided for by the Labour Relations Act. The results are explained in Table 10.

Table 10: Membership of bodies (provided by the LRA)

<table>
<thead>
<tr>
<th>Legal Bodies</th>
<th>Frequency</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee organisation</td>
<td>18</td>
<td>19</td>
</tr>
<tr>
<td>Bargaining Council</td>
<td>7</td>
<td>7.2</td>
</tr>
<tr>
<td>Workplace Forum</td>
<td>14</td>
<td>14.4</td>
</tr>
<tr>
<td>Not sure/did not answer</td>
<td>58</td>
<td>60</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>97</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Source: Results of analysis of membership

Table 10 above indicates that the majority of respondents were not sure or did not answer the question. One explanation is that these businesses do not belong to any employer organisation, or did not at the time of the research, belong to any body established in terms of the provisions of the Labour Relations Act. Furthermore, this could mean,
that there is still ignorance in the small business sector about the provisions of Act.

Thirdly, as is still to be verified in Question 5, 29, 30, the views of the leaders in this sector are generally negative towards Labour Legislation particularly the Labour Relations Act which is seen (as indicated in Chapter 2 and 3) as pro-trade union than employer.

The same trend is recorded in the case of employee organisations. Only 4 percent indicated that their employees belong to a Trade Union. Less than 20 percent of employees belong to a Bargaining Council or Workplace Forum. More than 70 percent, which is a clear majority, indicated that they do not belong to any of the three bodies mentioned above. These figures do not at all point to a positive orientation towards the Labour Relations Act.

4.4.3 SECTION C: PRE 1995 LABOUR RELATIONS SYSTEM

Question 5 under Section Two of the questionnaire enquired about the description of the labour relations system before 1995, that is before the implementation of the Labour Relations Act. This question was posed in order to assess the changes that occurred in 1995 and beyond.

The results of this question are summarised in Table 11 (See below)
Table 11: Pre 1995 Labour Relations System

<table>
<thead>
<tr>
<th>Labour Relations Aspects</th>
<th>Yes</th>
<th>No</th>
<th>Uncertain</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N</td>
<td>%</td>
<td>N</td>
<td>%</td>
</tr>
<tr>
<td>Collective bargaining</td>
<td>20</td>
<td>20.6</td>
<td>15</td>
<td>15.5</td>
</tr>
<tr>
<td>Dispute Resolution</td>
<td>31</td>
<td>32.0</td>
<td>3</td>
<td>3.1</td>
</tr>
<tr>
<td>Strikes</td>
<td>2</td>
<td>2.1</td>
<td>32</td>
<td>33.0</td>
</tr>
<tr>
<td>Lockouts</td>
<td>2</td>
<td>2.1</td>
<td>32</td>
<td>33.2</td>
</tr>
<tr>
<td>Recognition of Unions</td>
<td>11</td>
<td>11.3</td>
<td>22</td>
<td>22.7</td>
</tr>
<tr>
<td>Dismissal of Employees</td>
<td>30</td>
<td>30.9</td>
<td>4</td>
<td>4.1</td>
</tr>
<tr>
<td>Employer organisation</td>
<td>21</td>
<td>21.6</td>
<td>12</td>
<td>12.4</td>
</tr>
</tbody>
</table>

Source: Results of Pre 1995 Labour Relations Analysis

A closer scrutiny of Table 11 above, suggests the following observations:

- Firstly, the majority of respondents on all the aspects of labour relations listed above are uncertain or not sure about the system they used before 1995 (more than 60 percent). This could be explained by accepting the fact that some are new, that is established after 1995 or are ignorant about labour legislation in general.

- Secondly, it is significant to note that dispute resolution and dismissal of employees scored (31) and (30) respectively and are the highest scores after the “uncertain” category. This could imply that disputes and dismissals were already receiving attention from this sector prior to the introduction of the Labour Relations Act.
Thirdly, very few respondents (2) indicated that they experienced a strike action or lockout before 1995. Irrespective of the figures, the major difference between the pre-1995 and post-1995 period should be on how these aspects of the Labour Relations Act are dealt with, as the Act provides guidance on these matters. Furthermore, there is provision for the recognition of unions in the Acts although only 11 respondents indicated that they recognised unions before 1995.

In concluding the discussion in this section, the question arises: is there evidence that the Act had an impact on small businesses? A combination of the “No” category and the more than 60 percent responses under “uncertain” suggests that there has been very limited impact of the Act on small businesses. This vital question will be fully answered by the next questions.

4.4.4 SECTION D: USE OF LABOUR RELATIONS ACT STRUCTURES IN DISPUTE RESOLUTION

In order to indicate knowledge of Labour Relations Act – created bodies or their relevance to the company, the respondents were asked about the mechanisms they use to deal with dispute resolution. Table 13 is a summary of their responses:
Table 12: Use of Labour Relations Act structures in disputes resolution

<table>
<thead>
<tr>
<th>Labour Relations Act Structures</th>
<th>N</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>CCMA</td>
<td>36</td>
<td>37.1</td>
</tr>
<tr>
<td>Other (Labour Consultant/s; Private mediation/Arbitration)</td>
<td>61</td>
<td>63</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>97</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Resource: Results obtained from analysis the use of LRA bodies

Once again, the legal bodies created by the Labour Relations Act are either ignored or the respondents are not aware of their existence. In Table 13, 63 percent of respondents indicated that they use other bodies such as independent labour consultants to resolve disputes. There seems to be a limited number of respondents (37 percent) that indicated the use of the Workplace Forum or the CCMA.

Question 6 explored the opinion of respondents with regards to the functioning of the CCMA. The results are presented in three categories: positive, negative or mixed, and are summarized below:

Table 13: Opinion on the functioning of CCMA

<table>
<thead>
<tr>
<th>Opinion</th>
<th>N</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Positive</td>
<td>32</td>
<td>33</td>
</tr>
<tr>
<td>Negative</td>
<td>19</td>
<td>20</td>
</tr>
<tr>
<td>Mixed</td>
<td>46</td>
<td>47</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>97</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Resource: Results obtained from analysis of opinions on CCMA
In this section, the majority of respondents (47 percent) indicated that their views on the functioning of the CCMA are mixed. Only 33 percent indicated a positive attitude towards the CCMA.

The respondents were specifically asked to respond to the following questions about the CCMA:

- Does the CCMA serve the interests of employers?
- Does the CCMA make it easier to work with Unions?
- Is the CCMA a waste of time and energy?
- Does the CCMA make it difficult to manage a company?

A correlation of the results of Question 5 and Question 6 does not at this stage indicate a positive attitude towards the various aspects of the Labour Relations Act. The high percentage (47 percent) under the category of “unsure/uncertain” in Question 5 and the 46 percent under the category of “mixed” opinion in Question 6 are both pointing toward “negative”.

4.4.5 SECTION E: VIEWS ON THE EFFECTS OF LABOUR RELATIONS ACT ON SMALL BUSINESS

Questions on strikes and lockouts were asked in order to assess the respondent’s views on these aspects of the Act. The questions were significant in this investigation because the responses might indicate the
attitudes of the small business sector toward the Act. Furthermore, the significance of the views/attitudes of the respondents might affect the implementation of the Labour Relations Act.

The results of this section are summarised in Tables 14, 15, 16 & 17 (see below).

Table 14: Right to strike

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>36</td>
<td>37.1</td>
</tr>
<tr>
<td>No</td>
<td>28</td>
<td>28.9</td>
</tr>
<tr>
<td>Sometimes</td>
<td>32</td>
<td>33</td>
</tr>
<tr>
<td>Uncertain</td>
<td>1</td>
<td>1.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>97</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Source: Results obtained from analysis of responses to question 10

Table 15: Experience of strike action

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>2</td>
<td>2.1</td>
</tr>
<tr>
<td>No</td>
<td>94</td>
<td>96.9</td>
</tr>
<tr>
<td>No response</td>
<td>1</td>
<td>1.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>97</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Source: Results obtained from analysis of responses to question 11

Table 16: Exercise of right to lock-out

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>1</td>
<td>1.0</td>
</tr>
<tr>
<td>No</td>
<td>95</td>
<td>97.9</td>
</tr>
<tr>
<td>No response</td>
<td>1.0</td>
<td>1.0</td>
</tr>
<tr>
<td>Uncertain</td>
<td>1</td>
<td>1.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>97</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Source: Results obtained from analysis of responses to question 12
In this section, only 36 respondents indicated that employees should have the right to strike. This is a very significant result as the rights to strike is a fundamental constitutional right and is also provided for by the Labour Relations Act. The respondents that answered “No” were a minority (28), lower than those who were “neutral” or answered “sometimes” in this question. This cannot be viewed as an overwhelming support for the right to strike.

In Table 15 an overwhelming number of respondents (96.9 percent) indicated that they have not experienced a strike action during the last six years of the Labour Relations Act. Only 2 respondents indicated that they had a strike during this period. This could mean one of the following:

- The employees are not unionised;
- The sector is not a strike-prone sector;
- Disputes are resolved informally.

There is no evidence to conclude that the low strike rate is caused by the effective application of the Labour Relations Act provisions. What has
emerged in previous tables is that there is no or very limited implementation of the Act by the small business sector in the Nelson Mandela Metropolitan.

Table 16 points out other significant trends. A high figure of 95 was recorded, indicating that the 97.9 percent of respondents did not exercise the right to lock-out during the same six years period of the Act. This big majority suggest that this provision of the Act is not known or has no effect on the functioning of the labour relations system in the small business sector. It could also mean, that there was no need to exercise this right during the last six years.

With regards to the existence of picketing rules, again, the majority of respondents (94.8%) indicated that they do not have picketing rules or a code regulating mass action by employees. This further gives evidence that the significant provisions of the Act are not being implemented or there is a general ignorance about the Act. A correlation between this section and the previous section on the views of the respondents on the Act reveals that the trend is the same that is the conclusion might be drawn as follows:

- The respondent’s views are generally negative about the Act;
- The key provisions of the Act have limited effect (if any) on the functioning of the small business sector;
• There is a high level of ignorance about the Act in the small business sector;
• The high levels of negative responses might suggest a high level of violations of the Act, or
• There has been no need to apply these provisions of the Act.

However, an important consideration is that some of the respondents are still new (less than 2 years) in the field of business. There is also the very limited number of employees (less than 10) in some businesses. The general attitude of the respondents or their reluctance to complete the questionnaire is further discussed in Chapter 5.

4.4.6 SECTION F: FREEDOM OF ASSOCIATION AND GENERAL PROTECTION

In this section, the respondents were asked to indicate their views on union activities, union access to premises, deduction of union fees, and general information with regard to union work. The results of this section are presented in Table 18 and 19.

Table 18: Participation in Union activities

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>10</td>
<td>10.3</td>
</tr>
<tr>
<td>No</td>
<td>83</td>
<td>85.6</td>
</tr>
<tr>
<td>No response</td>
<td>4</td>
<td>4.1</td>
</tr>
<tr>
<td>Total</td>
<td>97</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Results obtained from analysis of responses to question 17
Table 18 records a significant number of respondents (85.60 percent) that indicated that their employees do not participate in union activities. The point of departure in the analysis of these responses, should be in Chapter Two of the Act that provides for:

- The right to participate in the formation of a union or federation;
- The right to take part in the lawful activities of that union;
- The right to participate in election of office bearers;
- The right to stand for elections.

However, it is not the responsibility of the business owner to form unions and federations. The 83 respondents that indicated that their employees do not participate in union activities does not necessarily translate into union bashing or opposition to union work.

It could, as indicated in previous sections, mean that the employees are not unionised. Only 10 respondents indicated that employees do participate in union activities.

Table 19: Use of company premises

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Positive</td>
<td>8</td>
<td>8.2</td>
</tr>
<tr>
<td>Negative</td>
<td>71</td>
<td>73</td>
</tr>
<tr>
<td>No response</td>
<td>18</td>
<td>19</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>97</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Source: Results obtained from analysis of responses to questions 18 and 19
From Table 19 above, it can be seen that the majority of respondents (73 percent), do have negative views with regard to issues of union activities, union rights and general orientation towards union work.

The significance of these results is that these rights are embedded in the Labour Relations Act, in the principles of freedom of association and the general protection of employees. Once again, the views of the respondents indicate their general attitude towards the Act.

A significant number of respondents refused to respond to matters of leave for union work, deduction of union subscriptions and giving information about union work in their companies. The figures recorded are 65, 81 and 89 respondents respectively.

The general reluctance to answer questions around leave for union work and deduction of union subscriptions, could be explained in terms of administrative costs associated with these activities. Other comments included the following:

(i) We do not have a personnel department;

(ii) Who is going to administer leave forms for unions;
(iii) If I deduct union subscriptions, how do I ensure that the union is accountable;

(iv) There are no benefits for employees even if they pay subscriptions.

4.4.7 SECTION G: COLLECTIVE AGREEMENTS AND USE OF CCMA

In this section, the respondents were asked to express their views on collective agreements and to indicate whether any disputes have been referred to CCMA. The results are reflected on Table 20 below:

Table 20: Disputes about collective agreements

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>5</td>
<td>5.2</td>
</tr>
<tr>
<td>No</td>
<td>90</td>
<td>92.8</td>
</tr>
<tr>
<td>No response</td>
<td>2</td>
<td>2.1</td>
</tr>
<tr>
<td>Total</td>
<td>97</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Results obtained from analysis of responses to question 24

Table 20 indicates that in the case of disputes about collective agreements, the largest group of respondents (92.8 percent) mentioned that they never had disputes of this nature. Once again, the period that is being scrutinised is the last six years, that is the post 1995 era. Only 5 respondents indicated involvement in a dispute about collective agreement during the same period.
Table 21: Use of CCMA

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>15</td>
<td>15.4</td>
</tr>
<tr>
<td>No</td>
<td>81</td>
<td>84</td>
</tr>
<tr>
<td>No response</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>97</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Results obtained from analysis of responses on CCMA

With regard to the use of CCMA services, the largest group of respondents 84 percent indicated that no CCMA services were used during the last 6 years. In the light of previous responses on the knowledge or use of some aspects of the Labour Relations Act, the responses in Table 21 above, confirmed an earlier hypothesis that the small business sector in the Nelson Mandela Metropolitan is either ignorant or negative toward the Labour Relations Act in general. The next Chapter will deal with these assumptions more conclusively.

4.4.8 SECTION H: GENERAL VIEWS/ATTITUDE ON LABOUR RELATIONS ACT

There was a further section at the end of the questionnaire for comments under the headings “views on Labour Relations Act” and “effects” of Labour Relations Act on the promotion of small businesses.

The respondents had the final opportunity to comment on the main question of the investigation, i.e. the effects of the Labour Relations Act on their companies. The comments are summarised below:
Table 22: General Views on Labour Relations Act

<table>
<thead>
<tr>
<th>Category</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Positive</td>
<td>26</td>
<td>27</td>
</tr>
<tr>
<td>Negative</td>
<td>12</td>
<td>12.3</td>
</tr>
<tr>
<td>Mixed</td>
<td>32</td>
<td>33</td>
</tr>
<tr>
<td>Don’t know</td>
<td>27</td>
<td>28</td>
</tr>
<tr>
<td>Total</td>
<td>97</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Results obtained from analysis general views on the Labour Relations Act

A small group of respondents (27 percent) indicated their final comments on the Act as positive. Although a smaller number (12.3 percent) indicated a negative attitude towards the Act, when combined with the “mixed” and “Don’t know” categories, it points towards a less positive attitude about the Act. It is interesting to note that the 33 percent that indicated “mixed” are specifically combining “negative” and “uncertain”. Very few respondents combined “uncertain” with “positive”. A preliminary conclusion at this stage might be that there is generally a trend towards negative views with regard to the implementation of the Labour Relations Act.

The next Table below summarises the final views of respondents on the effects of the Act on the promotion of small businesses in the Nelson Mandela Metropolitan Region.
Table 23: Views on effects of Labour Relations Act on promotion of small businesses

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Positive</td>
<td>19</td>
<td>20</td>
</tr>
<tr>
<td>Negative</td>
<td>43</td>
<td>44.3</td>
</tr>
<tr>
<td>Don’t Know</td>
<td>27</td>
<td>28</td>
</tr>
<tr>
<td>Confused/Mixed</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>97</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Results obtained from analysis of respondent’s views on Labour Relations Act

In Table 23 above, the “positive” category entails the following responses:

- Promote small businesses;
- Promote job creation;
- Assist with maintenance of good relations with employees.

The responses that indicate a negative attitude were the following:

- Discourage job creation;
- Frustrate the promotion and development of small businesses (see attached questionnaire).

The results as reflected in Table 23 above point towards a negative direction as 44 percent of respondents indicated that the Act discourages job creation and frustrate the development of the small business sector. Once again, a conclusion on this question will be provided in Chapter 5.
At this stage, mention should be made that only 19 respondents were positive about the effects of the Act on their companies.

### 4.5 SUMMARY

The aim of Chapter 4 was to outline planning details, describe methods used and present the findings of the study. The research design, the administration of the questionnaire, issues of timing and sequencing and assumptions were all defined and discussed in this Chapter. In this discussion, reference is made to the fact that a satisfactory rate of collection was achieved through daily follow-up with potential respondents (see Table 6).

The results of the empirical study were then presented mainly in the form of tables with frequencies and percentages. The conclusion that can be reached is that there is a general ignorance and negative views with regards to the main provisions of the Labour Relations Act. It is evident that the greater part of the Act is being ignored or has no immediate relevance to the operations of the small business sector in the Nelson Mandela Metropolitan Region. The Chapter obviously does not provide an in dept analysis of the findings and interpretation and this is done in chapter 5.
In Chapter 5, an integration of the findings of the empirical survey and literature survey will be explored with a final conclusion being offered. Few recommendations will also be introduced in this chapter.
CHAPTER 5

AN INTEGRATION OF THE FINDINGS OF THE EMPIRICAL SURVEY WITH
THE REVIEW OF LITERATURE, SUMMARY, CONCLUSIONS AND
RECOMMENDATIONS

5.1 INTRODUCTION

This chapter serves to provide an overview of the main deductions made in each chapter. The theoretical survey will be integrated with the findings of the empirical survey. Various recommendations, future questions and conclusions are also included.

From the above, and the information presented in the last 4 Chapters, it is apparent that a brief statement on the economy of the Nelson Mandela Metropole is made, without giving an in depth analysis. This is done to stress the fact that the promotion and development of the small business sector is not only affected by labour legislation, but is directly influenced by economic factors.

Pretorious (1999 : 2) concurs with a general perception that the Port Elizabeth – Uitenhage area is often associated with a well-developed industrial manufacturing sector. Coupled with the harbour and its export function, the manufacturing sector has served the area well. Some believe that the local economy is over-dependent on the manufacturing sector, particularly the motor-manufacturing industry.
A more holistic approach that will include the informal sector is needed. It is apparent that previous studies, have excluded what is believed to be vast, but difficult to research area, which is the small business sector (Pretorius 1999: 2).

From the above statement, it can be deduced that:

- Firstly, the few respondents (15.5 percent) that are operating in the manufacturing sector are a point of concern. The perception that the manufacturing sector is a well-developed sector in the Metropole does raise high expectations with regard to the number of small businesses in the sector that are expected to prosper.

- Secondly, with regard to the exclusion of the informal sector in previous research projects, it is apparent that more studies (that will include this sector) should be promoted and resourced. Future studies should investigate a variety of aspects regarding the growth and development of the Small Business Sector. More studies will complement other publications and will reflect positively on the contribution of researchers to socio-economic development of the region.
5.2 SUMMARY

The focus of this study was on the impact of the Labour Relations Act on the growth and development of the small businesses in the Nelson Mandela Metropole. For the purposes of the study, three important concepts were defined. These are:

(i) Labour Relations;
(ii) Labour Legislation;
(iii) Small Business.

In Chapter 2, the various provisions of the Labour Relations Act were critically examined, with the aim of providing an overview of the possible effects of the Act on the promotion and development of the small business sector. In this regard, it was emphasised that the Act was amended. A simplistic approach that explains the amendments in terms of them being triggered by the need to promote the small business sector only was avoided.

The objective of Chapter 3 was to explain the vital role of the small business sector in the growth and development of the South African economy. It was concluded that small businesses are operating in almost all sectors of the economy. A common perception is that the sector provides much needed jobs for the economy. In this regard, recent figures on employment were further noted (Table 3 and 4).
It was also found that the majority (35 percent) of SMME’s in South Africa are based in Gauteng. Only 8.7 percent are located in the Eastern Cape. The inter-dependence of investment (domestic and foreign), economic growth and job creation was presented in this Chapter.

In Chapter 4, the results of the study were presented, mainly in the form of tables and interpretations. The research questionnaires revealed (amongst others) the following critical information:

- That the majority of the small businesses (69 percent) in the Metropole are based in Port Elizabeth and are in the wholesale/retail sector (33 percent);

- That 60 percent of owners of these businesses do not belong to any legal body as defined by the Labour Relations Act of 1995;

- That 94 percent of these companies do not have picketing rules;

- That more than 50 percent of the owners do not support the right to strike;

- That in more than 80 percent of these businesses, there are no trade union activities;
• That 84 percent of these companies do not utilise the services of CCMA, and finally;

• That the majority of small businesses owners are negative toward the Act in general.

Despite the apparent need for both the promotion of the small businesses and knowledge of the Labour Relations Act, the results point to a direction that implies the existence of negative views about the Act. Therefore a strict and rigid implementation of the Act could be met with resistance from affected owners of small companies.

Finally, Chapter 4 serves to stress that any business, irrespective of its size, must make profit. In this regard, Bekker (1988 : 17) concurs by stating that in the operations of a small business, there will always be some aspects or a combination of aspects to improve or to be improved. Room for improvement will never cease and the entrepreneur can make a major contribution to the lives of people. Continuous improvement is enhanced in order to generate profit and secure the survival of the business.

5.3 CONCLUSIONS

From the above it is evident that the owners of the small companies are concerned about the consequences of the implementation of the Labour
Relations Act on input costs. The word “effect” denotes influence or consequences of an action. In addition to concerns around support programmes for this sector, the implementation of the various provisions of the Act (which are generally viewed as pro-union) provide an immediate threat to promotion and development of the small businesses in the Nelson Mandela Metropole. Broom (1966: 66) supports this conclusion as he observed that the personal relationship between the small businessman and his customers and employees is intimate. Furthermore, Broom (1966: 15) argues that, the small business should enjoy advantages such as lower taxes, less government regulation and more flexible management. It is also evident that these businesses lack the services of personnel with highly specialised management skills. The point about “less government regulations” is more relevant to this causal relationship between labour legislation and the growth of the small business sector.

5.4 RECOMMENDATIONS

From this investigation, particularly the contents of Chapter 4, it can be deduced that a comprehensive, co-ordinated and well-resourced strategy is needed, in order to make substantial progress regarding the growth of the small business sector. It is recommended that:

• An audit of the small business sector in the Nelson Mandela Metropole be conducted. This audit constitutes an assessment of the current status in relation to growth of the sector, and indicates
the strengths and weaknesses of the Metropole in this regard. The information provided by this audit is vital to the process of setting objectives, amending labour legislation and mobilising resources in support of small businesses. According to Nel (1997:78) such an analysis cannot be dispensed with since an effective SMME development strategy will build on strengths and exploit opportunities, while it will strive to overcome or minimise weaknesses and threats.

In Chapter 3, it was apparent that the owners and leaders of the small business should acquire the necessary industrial relations knowledge as they grow into medium and big businesses. De Beer (1993:1) argues that good labour relations might contribute towards promotion of efficiency in their organisations. As reflected on Table 3 and Table 4, the number of employees in the small business sector, and the significant contribution of the sector to job creation, justifies the need for labour relations skills in this sector. It is hoped that the Skills Development Act of 1999 will contribute to skills training in the small business sector.

The Ntsika Enterprise Promotion Agency points out that the small business sector has absorbed workers who have been retrenched from large corporations and the public sector (Annual Review: 2001).
It is recommended that an integrated programme for small businesses should include labour relations training, financial support, entrepreneurship training and mentorship amongst others.

- The impact of the Coega IDZ project on job creation and the development of the small business sector still need to be investigated and monitored. Job creation and a tendering approach that supports SMME’s form an essential element of the strategic plan of the Coega Development Corporation (www.coega.co.za). The construction phase of the project is already involving the small construction companies as they are sub-contracted by the big ones. As indicated in Chapter 3 (Table Two), only 49.1 percent was contributed by the construction sector to our GDP during the year 2002. The registration of SMME’s and the creation on SMME database by the Coega IDZ Corporation, all points towards an SMME promotion policy. As indicated in Chapter 2, the value of this investigation is that it might generate further research in the field of small business development. An in depth analysis of the impact of the Coega IDZ on job creation and development of the small business sector could fall under a co-operative relationship between the leaders of the Metropolitan and the academic community.

Thus, in conclusion, it can be said that there is a need to provide on-going support to SMME’s through mentoring programmes and
corporate support. The BEE commission proposes that about 15 percent of government and 10 percent of private sector procurement should go to small and medium enterprises. (BEE Commission Report 2002 : 47).

The importance of SMME’s to the Nelson Mandela Metropolitan economy cannot be overstated. Their job-creating ability, their role in the promotion of black economic empowerment, the empowerment of women and entrepreneurial development are all invaluable. The task is to confirm continued commitment to the implementation of an SMME development strategy and to highlight areas where corrective action is required.
REFERENCES


http://www.nrf.ac.za/methods/proposals.htm. *Writing your research proposal – A Workbook for First Time and Inexperienced Researchers in the Social Sciences and Humanities*
http://www.coega.co.za

A commitment to Sustainable Development

http://www.bmfonline.co.za

Black Economic Empowerment Commission Report
QUESTIONNAIRE ON THE EFFECTS OF THE LABOUR RELATIONS ACT ON SMALL, MEDIUM AND MICRO ENTERPRISES (SMME’S)

July 2002

Why is the research being conducted?

The research objectives are:

• Assess the impact of the 1995 Labour Relations Act on SMME’s
• Compare the labour relations situation before and after 1995

The interested parties are:

• SMME’s sector
• Research community
• The State
• Business leadership in general
• Labour organisations

The researcher takes ownership of the project and information provided in the questionnaire is for this project only.

Thank you for your cooperation.

KHAYA MATISO
MBA
PE TECHNIKON
SECTION ONE : BACKGROUND INFORMATION

1. In what sector of industry does your company operate? Please indicate with a cross in the box provided:
   
   (a) Fishing
   (b) Manufacturing
   (c) Wholesale/retail
   (d) Catering (food and beverage)
   (e) Agriculture
   (f) Tourism and hospitality
   (g) Stationery and Printing
   (h) Transport
   (i) Building industry
   (j) Other (please specify)

2. What is the current, total, staff compliment of your organisation? Please indicate with a cross in the box provided:
   
   (b) Permanent full-time
   (b) Temporary full-time
   (c) Contract
   (d) Casual
   (e) Part-time - number of hours per week (please specify)

3. In which geographical area of the Metropole does your company operate? Please indicate with a cross in the box provided:
   
   (c) Port Elizabeth
   (b) Despatch
   (c) Uitenhage
   (d) All of the above
   (e) Other (please specify)

SECTION TWO

4. Is your company a member of?

4.1 (a) Employer organisation
   (b) Bargaining Council
   (c) Workplace Forum
   (d) Other (please specify)

4.2 Are the employees of your company members of?

   (a) Trade Union
   (b) Bargaining Council
   (c) Workplace Forum
   (d) Other (please specify)
5. Describe labour relations in your company before 1995 ie before implementation of the Labour Relations Act. Please indicate with a cross in the box provided:

(a) Collective bargaining  Yes ☐ No ☐
(b) Dispute resolution  Yes ☐ No ☐
(c) Strikes  Yes ☐ No ☐
(d) Lockouts  Yes ☐ No ☐
(e) Recognition of Unions  Yes ☐ No ☐
(f) Dismissal of employees  Yes ☐ No ☐
(g) Employer organisations  Yes ☐ No ☐

6. In your opinion how would you describe the functioning of the commission for conciliation, mediation and arbitration (CCMA).

(a) Does serve the interests of my company  ☐
(b) Makes it easier to work with the Unions  ☐
(c) It is a waste of time and energy  ☐
(d) It makes it difficult to manage the company  ☐
(e) Any other relevant description

________________________________________________________

________________________________________________________

7. Has your company dismissed employees after 1995? Yes ☐ No ☐ Can't remember ☐

In the case of alleged unfair dismissal, what means of dispute resolution was used?

(a) Workplace Forum  ☐
(b) CCMA  ☐
(c) Labour Consultant(s)/private mediation/Arbitrators  ☐
(d) Any other procedure (please specify)  ☐

________________________________________________________

________________________________________________________

8. Has your company retrenched employees during the last six years? Yes ☐ No ☐

If yes, what procedure was used?

(a) Collective agreement  ☐
(b) Consultation with a registered Trade Union  ☐
(c) Consultation with nominated representatives  ☐
(d) Any other procedure (please specify)  ☐

________________________________________________________
9. Has your company been involved in transferring employees from one organisation to another during the last six years?  

Yes ☐  No ☐  

What procedure was used?  

(a) Written agreement between old and new employer ☐  
(b) Disclose the terms of the agreement to each employee ☐  
(c) Disclose all relevant information to the parties ☐  
(d) Any other procedure (please specify) ☐  

SECTION THREE : STRIKES AND LOCK-OUTS  

10. In your opinion should the employees have the right to strike? Yes ☐ No ☐ Sometimes ☐  

11. Did your company experience a strike action during the last six years? Yes ☐ No ☐  

12. (a) Has the company exercise the right to lock-out during the last six years? Yes ☐ No ☐  

If yes, did the lock-out achieve its objectives ie resolve the issue/s? ____________________________  

(b) What method of dispute resolution was used? ____________________________  

SECTION FOUR : FREEDOM OF ASSOCIATION AND GENERAL PROTECTION  

13. Does your company provide the employees with other remuneration other than financial eg food? Yes ☐ No ☐  

If your answer is yes to the question and yes in question 11, did you continue to give your employees this payment in kind during the strike action?   Yes ☐ No ☐  

14. Was an interdict or order granted in the case of strike or lock-out? Yes ☐ No ☐  

15. Was any compensation paid for any loss suffered during the strike? Yes ☐ No ☐  

16. Do you have picketing rules or code regulating mass action? Yes ☐ No ☐  

If yes, are the meetings held during fixed working hours? Yes ☐ No ☐ Time negotiated ☐  

17. Do your employees participate in union activities? Yes ☐ No ☐  

If yes, do they participate in the election of office bearers? Yes ☐ No ☐  

If the answer is YES to both questions:  

Would your company allow holding of elections on its premises in future? Yes ☐ No ☐  

18. Do unions have access to your premises? Yes ☐ No ☐  

19. Are there trade union meetings that are held at your premises? Yes ☐ No ☐  

If yes, are the meetings held during fixed working hours? Yes ☐ No ☐ Time negotiated ☐
20. Does your company deduct union subscriptions or levies on behalf of the union? Yes ☐ No ☐

21. Does your company provide the union with any of the following information with regard to union deductions?
   (a) Remittance ☐
   (b) Names of union members ☐
   (c) Amounts deducted ☐
   (d) Period of which deductions relate ☐
   (e) Copy of every notice of revocation ☐

22. Are union members entitled to take reasonable leave during working hours for union work? Yes ☐ No ☐

   If yes, is there an agreement of the number of days that could be taken?
   Yes ☐ No ☐

   If yes, how many days? ______________

   Was this negotiated for a specific period?
   (a) Per week ☐
   (b) Per month ☐
   (c) Per year ☐

23. Disclosure of information:
   (a) Do you get requests/demands from union leaders to disclose information relevant to collective bargaining? Yes ☐ No ☐

   (b) Did you have disputes in the past about what information is required to be disclosed to the Union? Yes ☐ No ☐

   (c) If yes, was the dispute referred to CCMA? Yes ☐ No ☐

24. Collective agreements:
   (a) Were there any disputes about collective agreements during the last 6 years? Yes ☐ No ☐

   (b) Were there any disputes about collective agreements that were referred to CCMA? Yes ☐ No ☐

SECTION FIVE: DISPUTE RESOLUTION

25. Has your organisation been exposed to the following dispute resolution structure?
   (a) CCMA ☐
   (b) Labour Court ☐
   (c) Labour Appeal Court ☐

26. Has your company resolved a dispute through the CCMA? Yes ☐ No ☐

27. Has your company been affected (positively or negatively) by any of the following Labour Court decisions/services?
   (a) Granted interim relief ☐
28. Has your company been ordered to re-instate an employee or employees?  
Yes ☐  No ☐

Why?  
________________________________________________________________________
________________________________________________________________________

SECTION SIX: GENERAL

29. As a small/medium business, describe your views about the Labour Relations Act of 1995 and amendments.

(a) Negative ☐
(b) Positive ☐
(c) Uncertain ☐
(d) Don’t know ☐

30. What is the effect (if any) of the Labour Relations Act on the promotion of small businesses in the Nelson Mandela Metro?

(a) Promote small businesses ☐
(b) Frustrate the development of the SMME’s ☐
(c) Discourage job creation ☐
(d) Promote job creation ☐
(e) Assist with the maintenance of good relations with employees ☐
(f) Don’t know ☐

Why do you say this (please motivate your answer):  
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

31. Please describe how the following matters are dealt with after the implementation of the Labour Relations Act in 1995:

(a) Collective bargaining  
________________________________________________________________________

(b) Dispute resolution -  
________________________________________________________________________
(c) Strikes

(d) Lock outs

(e) Recognition of Unions

(f) Dismissal of employees

(g) Employer organisations

32. Any other comments relevant to the Labour Relations Act:

THANK YOU FOR YOUR PARTICIPATION

Khaya Matiso
Executive Director: Student Services
University of Port Elizabeth

☎ (041) 504-2221
☎ (041) 504-2809
Cell: 082 968 0160