



Potential Impact of Law on the Business

LO2

The relationship between legislation, regulations and standards

- ▶ Legislation: A law or set of laws which is formulated by the judiciary of a country and then made official by the government.
- ▶ Regulation: A law on some point of detail, supported by an enabling statute, and issued not by a legislative body but by an executive branch of government.
- ▶ Standard: Written limit, definition or rule that is approved and monitored by an agency as the minimum benchmark acceptable

Based on the definition of the abovementioned three, what do you think are the potential impacts of each on businesses?

- ▶ Legislation will govern, based on the type of business which is formed, what legal stipulations must be met. E.g. Company Act of Jamaica 2004.
- ▶ The Regulations to this particular piece of legislation for instance will provide further details on criteria which must be met.
- ▶ The standards however, may be stipulated by the Companies Office of Jamaica.

Further implications of various legislation on businesses

What do you think are the implications of the following considering the definition which is provided?

Environmental Legislation

- A collection of many laws and regulations aimed at protecting the environment from harmful actions by the acts or omissions of a legal body.

Health and Safety Legislation

- Legal framework to promote, stimulate and encourage high standards of health and safety in places of work to both employees and members of the public.

► N.B. Where an employer is found in contravention of health and safety legislation and has failed to provide a safe working environment for their employees or have failed to provide such environment for the public, these employees may be liable for the tort of negligence.

► Negligence occurs where a person who has a duty of care to act, fails to discharge this duty and as a result of their failure to act, damage has occurred to the injured party. In order for a cause of action to arise for negligence, the injured party must show that the wrongdoer:

1. Had a duty to act with care
2. Breached that duty of care
3. The breach has caused damage to a party
4. This damage which arose must have been reasonably foreseeable.

Consumer Legislation

- A group of laws and organizations designed to ensure the rights of consumers as well as fair trade, competition and accurate information in the marketplace. These laws are designed to prevent businesses that engage in fraud or specified unfair practices from gaining an advantage over competitors.

Definition of Employment

- ▶ This is a relationship between two parties, usually based on a contract where work is paid for, where one party, which may be a company for profit or non-profit or another entity or person is the employer and the other is the employee.

What is employment law?

- ▶ The body of law that governs the employer-employee relationship, including individual employment contracts, the application of tort and contract doctrines, and a large group of statutory regulation on issues such as the right to organize and negotiate collective bargaining agreements, protection from discrimination, wages and hours, and health and safety.
- ▶ <http://legal-dictionary.thefreedictionary.com/Employment+Law>

The impact of Employment law on businesses.

► Things to note:

1. Though a contract which is an agreement made between parties would define the terms of the employment, certain employment legislation such as the **Employment (Termination etc) Act of Jamaica** stipulates the amount of notice a person must be given before their employment contract may be terminated.

What are the implications of this?

Application of the law in Maladministration

What is Maladministration?

This is a situation where the individual or group in charge is unjust, dishonest, or ineffective in their leadership. In many cases, maladministration means that a circumstance is so bad that it must be investigated or reprimanded.

→ Consider the effect which employment legislation will have instances of maladministration.

Responsibilities of directors and delegation of tasks.

Who is a Director?

These are officers of the company who are responsible for managing the company and making the decisions as to its operation on a day to day basis, for the benefit of the shareholders.

<http://www.companylawclub.co.uk/law-on-company-directors>

- The duties of a director may be set out in the bylaws of a company however, under company legislation there are certain things which a director of a company MUST do.

How employer and employee relationships interact with employment law.

- ▶ In considering the interaction between this relationship and employment law, one must remember that while the contract between employer and employee have been created by these two parties, the law still requires that certain things are followed.
- ▶ If there is a failure to follow these requirements in law, then a employee may find themselves liable in negligence depending on whether or not there is injury to the party.
- ▶ Note also, that there are employment legislations which govern the conduct of persons in the workplace. These legislations are enacted to prevent instances of sexual harassment for example.