

LABOUR INSPECTIONS: A PRACTICAL GUIDE FOR EMPLOYERS



Labour inspections are an increasingly common reality for employers in South Africa. The Department of Employment and Labour has announced plans to appoint an additional 10,000 labour inspectors over the next three years to strengthen workplace compliance enforcement.

Whether triggered by a complaint, industry risk profiling, or routine compliance monitoring, inspections by the Department of Employment and Labour can occur with little to no warning. For many employers, these visits can be stressful and disruptive, often due to uncertainty about the inspection process and what is expected.

However, with the right understanding and preparation, labour inspections can be managed effectively—and even used as an opportunity to strengthen overall compliance.

In this article, we outline what employers can expect from a labour inspection and how to prepare.

What is the purpose and legal framework of labour inspections?

Labour inspectors are appointed in terms of the Basic Conditions of *Employment Act 75 of 1997 (BCEA)* and are mandated to monitor and enforce compliance with a range of employment-related legislation.

Their role extends beyond enforcement as they are also tasked with promoting fair labour practices and protecting vulnerable employees.

During an inspection, compliance is typically assessed against key legislation such as the BCEA, the *National Minimum Wage Act*, the Occupational Health and Safety Act, *the Employment Equity Act*, the Unemployment Insurance Act, and the Compensation for Occupational Injuries and Diseases Act (COIDA).

The Department's Inspection and Enforcement Services division plays a central role in ensuring that employers adhere to these laws, with the broader objective of promoting equitable and safe working conditions.

What triggers a labour inspection?

Inspections may take place on a routine or targeted basis. In some instances, inspections are conducted as part of sector-wide compliance initiatives or coordinated enforcement drives.

In other cases, they are triggered by complaints lodged by employees, whistleblowers or members of the public. Employers with a history of non-compliance or those operating in high-risk industries are more likely to be inspected.

What is an inspection notice and what documentation is required?

In many instances, the inspection process begins with a formal notice of inspection issued by the Department of Employment and Labour.

This notice informs the employer of the Department's intention to conduct an inspection and, where applicable, may indicate when the inspection will take place. Importantly, it also outlines the documentation that must be prepared and made available for review.

Typically, employers will be required to have a range of records readily accessible. These include proof that the employer keeps a copy of the applicable legislation or sectoral determination, attendance registers for at least the previous two months, and signed employment contracts or letters of appointment reflecting employees' working hours. Inspectors will also expect detailed remuneration records, such as payslips, overtime records, and leave pay information for a recent period, usually the last two months. Inspectors assess these documents to determine whether employees have valid and fair written agreements, whether remuneration complies with minimum wage requirements, and whether proper records of working hours, overtime and leave are maintained.

In addition, statutory compliance documentation forms a critical part of the inspection as inspectors verify that employers are correctly registered and compliant with payment obligations. Employers must therefore be able to provide *proof of registration with the Unemployment Insurance Fund (UIF)* and evidence of recent contributions, as well as *registration with the Compensation Fund* in terms of *COIDA*, together with proof of payment.

Corporate records are equally important and generally include company registration documents issued by the *Companies and Intellectual Property Commission*, a company letterhead, and a comprehensive employee list reflecting each employee's name, identity number, job title, start date and rate of pay. In certain cases, inspectors may also verify the legal status of foreign employees to ensure that valid work authorisation is in place.

Health and safety compliance is also a significant component of any inspection, with attention given to whether the workplace meets the standards set out in the Occupational Health and Safety Act, including the appointment of health and safety representatives, the establishment of committees where required, and the implementation of appropriate safety measures and training.

While these documents may in certain circumstances be submitted electronically to the inspector in advance, employers should ensure that all records are also physically available at the workplace on the day of the inspection. Failure to produce the required documentation can immediately raise compliance concerns and may result in increased scrutiny.

Taken together, the inspection notice and the required documentation provide employers with a clear roadmap of what will be assessed, allowing them to prepare proactively and ensure that all aspects of their operations are aligned with legislative requirements.

What happens when a labour inspector arrives at the workplace?

When a labour inspector arrives at a workplace, they are required to identify themselves by producing an official appointment certificate upon request. Employers are entitled to verify this identification before granting access.

Once access has been granted, inspectors have wide-ranging powers. The inspection process typically involves both a review of documentation and a physical inspection of the workplace. Inspectors may also engage directly with employees to verify information and ensure that working conditions align with legislative requirements.

Possible outcomes of a labour inspection

At the conclusion of a labour inspection, several outcomes are possible. If the employer is found to be compliant, no further action will be taken. However, where non-compliance is identified, the inspector may issue a compliance order, provide recommendations for corrective action, or in more serious cases, initiate enforcement proceedings.

Failure to comply with labour legislation can result in fines, penalties or even criminal liability, depending on the severity of the contravention. Employers are typically given an opportunity to rectify non-compliance within a specified time frame. However, ignoring or failing to comply with an inspector's directive can escalate the matter significantly.

Practical steps for employers to prepare for a labour inspection

Preparation for a labour inspection should not be a reactive exercise but rather an ongoing compliance strategy. Employers should ensure that all employment contracts, policies and records are up to date and aligned with current legislation. Payroll practices should be regularly audited to ensure compliance with minimum wage requirements and statutory deductions.

Workplace health and safety should be actively managed, with proper training, risk assessments and documentation in place. Employers should also ensure that all required notices and summaries are displayed prominently and are accessible to employees.

It is equally important to ensure that Human Resources and management staff are familiar with inspection procedures and understand how to engage with inspectors professionally and cooperatively.

In conclusion

Labour inspections are not merely a regulatory burden but an essential mechanism for promoting fair and lawful employment practices in South Africa. Employers who adopt a proactive approach to compliance are far less likely to experience disruptions during inspections and are better positioned to protect their businesses from legal and financial risk.

Ultimately, the key to navigating labour inspections successfully lies in preparation, transparency and a thorough understanding of the applicable legal framework.

SERR Synergy assists businesses in navigating the complexities of labour inspections and ongoing compliance. We provide expert guidance to help employers prepare for inspections, ensure that all required documentation is in place, and address any areas of non-compliance before they become risks.

Whether you require a full compliance audit, assistance during an inspection, or support in responding to compliance orders, our team of *experienced legal advisors* is ready to partner with you to safeguard your business and ensure adherence to South African labour legislation.

About the Author: Angelique van der Sandt joined SERR Synergy in March 2017. She is the Labour Manager at our Cape Town branch. She is an admitted attorney of the High Court of South Africa and completed her Bachelor of Arts (BA) in Law and subsequent Bachelor of Laws (LLB) degrees, Law School and post-graduate Certificate in Advanced Labour Law at the University of Pretoria

