

Labour Inspection Country Profile: Lesotho

March 2009, based on information from 2003, 2005 and 2008

Labour Inspection Structure and organization

Name of the institution that manages work issues

Ministry of Labour and Employment <http://www.labour.gov.ls/home/>

Department(s) responsible for Labour Inspection

Labour inspection services in Lesotho began operations in 1986. The Labour Department has six sections, two of which have responsibilities over labour inspection: The Industrial Relations Section and the Occupational Health and Safety Section. The Industrial Relations section in the headquarters is subdivided into three areas of operation, according to the industries serviced: Textile, Construction and Security.

Law that covers organization and functional composition

Scope of labour inspection

Within the functions of the Labour Department, are to conduct regular inspections of commercial and industrial undertakings and advise employees and employers on matters relating to industrial relations and compliance with labour legislation. The Labour Department enforces the Labour Code, Workmen's Compensation Act and the Wages Order. The Occupational safety and health department conducts workplace inspections, surveys and investigation of accidents, dangerous occurrences and work-related diseases and monitoring adherence to Occupational Safety and Health legislation.

The OSH Promotional Services Unit provides relevant training to social partners to enhance the understanding of their duties and obligations in promoting safety and health; promote and implement the National HIV&AIDS Policy at workplaces; compile and analyse statistics on occupational safety and health; and disseminate information on Occupational Safety and health.

At the district level, officers deal with both occupational safety and health and labour relations issues. Their functions include inspections and managing strikes and lockouts, as well as providing employment services and dealing with workmen's compensation, payments of pensions to workers who worked in South Africa and attesting documents for workers seeking employment in South Africa. These functions make it difficult for officers to achieve the target number of inspections.

The Directorate of Dispute Prevention and Resolution, was established releasing labour officers from the duty of resolving and managing labour disputes. Confusion still exists regarding their role, as officers have been informed that they can still do some mediation, conciliation and referrals.

Local divisions

Inspectors in the ten administrative district offices and headquarters (in the capital, Masaru) carry out the services of the Labour Inspectorate.

Programming and communication

Inspection has not been regularly and systematically undertaken in the past. Special measures to increase inspections by the Permanent Secretary included daily meetings between the inspectorate and the Labour Commissioner and weekly meetings with the Permanent Secretary.

The Labour Commissioner, the Director of Health and Safety and heads of the District Labour Inspectorate are responsible for monitoring the labour inspectors' work plans and taking corrective action as necessary so that the monthly plans are properly implemented. The responsible heads of inspectors in the districts must approve these plans in advance, at least 14 days before inspection, and then monitor their full and timely implementation. At the district level, inspectors have considerable autonomy in choosing the establishments for inspection – a procedure which appears inadequate and has little value because of the lack of monitoring and targeting. There is no annual work plan for each district, or the headquarters.

Current reforms

The Labour Inspectorate, along with the labour administration structure in Lesotho, is undergoing changes. One of the proposals that appear in the Strategic Plan is for the Industrial Relations section to be restructured so as to have a professional cadre of inspectors, who will be able to carry out labour inspections efficiently and effectively. The Ministry of Labour has taken positive steps towards achieving an integrated labour inspection system. This is a commendable gesture given the available human and material resources.

From 2001-2004 the USDOL funded project on Strengthening Labour Administration in Southern Africa (SLASA) was operational, and its aim was among other things to assist the Lesotho Department of Labour to strengthen and professionalize its inspectorate. Lesotho's plan included; improved reporting systems through

reorganized structures; regular, systematic and planned inspections through workplace visits; education on labour laws and obligations of workers and employers; inspection monitoring and enforcement success; data collection and analysis on labour and employment issues for statistical and research functions; and increased enforcement through application of appropriate sanctions. During 2004-2007, the project Improving Labour Systems in Southern Africa (ILSSA) was operational. The project was an ILO initiative aimed at improving labour administration in Southern Africa, and Lesotho was one of the beneficiaries. The Project is also aimed at ensuring compliance with national labour laws. The project made positive contributions to the management and administration of the Ministry of Labour in Lesotho.

Human Resources and career development

Permanency of inspectors

The appointment of public service workers can be on permanent or temporary contracts or casual labour terms. All labour inspectors initially serve a probationary period of one year, after which they are appointed on permanent term. There are no conditions governing the career advancement of labour inspectors. At the moment, the structure of the labour inspectorate provides very little room for career advancement.

Selection process

The recruitment of all public employees is done through the Ministry of Public Service. The ministry advertises vacant positions and applicants are short-listed and called in for interviews. Members of the Public Service Commission conduct the interviews. The most qualified applicant is selected for the post and posted to the relevant ministry. Performance appraisals to motivate high performers do not exist.

Background required

Training is provided on an ad hoc basis and it is usually through donor-funded courses (e.g. on safety and health, hazard identification and risk assessment and on labour inspection management). Labour inspectors perform their duties based on the orientation provided by their colleagues. Many labour inspectors have little knowledge of OSH standards and therefore require further training. The needs identified by labour inspectors include; training on labour laws, negotiating skills, writing proper accident reports, accident analysis, recording of evidence, computer literacy and basic Chinese language.

Visits and functions

Types of visits

Role of preventive measures

The existing system is particularly weak in the task of promoting the prevention of occupational accidents and diseases.

Programming

Registries and reporting of accidents/diseases at work

There is currently no master register of the different establishments, in order to program inspection visits.

Sanction and administrative processes

If the employer fails to comply with the legal requirements, the labour inspector has to institute legal action either with the Directorate of Dispute Prevention and Resolution, the labour courts or in the magistrate court (for criminal cases). There is still misunderstanding as to whether the labour court can hear criminal cases. The law seems to allow it but presently criminal cases are still heard in the magistrate courts. Labour inspectors refer the cases to the legal division of the department which prosecutes the employers (and employees) who have failed to comply with the law. Usually, an inspector may be asked to appear in court as a witness but in most cases, once the matter has been referred to the legal division, there is not much follow up or tracking down of cases by the inspectors.

Social partners and labour inspection

Cooperation between the Labour Inspectorate, employers and workers or their organizations is presently only taking place with the formation of health and safety committees.

In the past, joint tripartite inspections, were carried out biannually in the textile industry. This arrangement was made to ensure transparency among the social partners with regards to the manner in which inspections were carried out. It was also meant to enable the social partners to appreciate the complexities and genuine problems encountered by inspectors during inspections. However, this exercise was suspended.

ILO Conventions ratified

Lesotho ratified Convention No. 81 in 2001 and has not ratified Convention No. 129.
To see the CEACR comments made to Lesotho on Convention No. 81 click [here](#).