

Labour Inspection Country Profile: Zambia

July 2009

Labour Inspection Structure and organization

Name of institution that manages work issues

Ministry of Labour and Social Security (MOLSS) (<http://www.mlss.gov.zm/>)

Department(s) in charge of Labour Inspection

The MOLSS is organized into 5 departments and 1 unit. Among them are the Department of Labour and the Department of Occupational Safety and Health.

The Department of Labour (DOL) is headed by a Labour Commissioner with three functional Sections namely; Employment, Industrial Relations and Inspections. Each Section is under the supervision of an Assistant Labour Commissioner. The Labour Commissioner's Office has responsibility for the enforcement of labour legislation; collecting, analyzing and compiling labour statistics; promoting and maintaining sound industrial relations; operating a free employment/placement service; implementing, controlling and managing programmes on the elimination of child labour and conducting labour inspections. Within the department, is the Labour Inspection Unit which is responsible for carrying out labour inspections.

The Department of Occupational Safety and Health (OSH) is headed by a Director with three functional Sections, namely: Mechanical, Electrical and Pressure Vessels; Occupational Hygiene; and Construction and Civil Engineering. Each Section is under the supervision of a Chief Inspector. The Department's core functions include; the enforcement of OSH Legislation, the examination and testing of pressure vessels; conducting investigations on occupational accidents and dangerous occurrences in factories, construction sites and carrying out research on occupational diseases, providing guidelines on hazardous operations at the workplace.

The Ministry of Health, Department of Mine, and Environmental Council of Zambia collaborate with MOLSS on labour inspection.

Laws that cover organization and functional composition

- Employment Act (No. 57 of 1965)
- Employment (Special Provisions) Act (No.13 of 1994)
- Employment of Young Persons and Children's Act (No. 10 of 2004)
- Factories Act (No.2 of 1966)
- Industrial and Labour Relations (Amendment) Act (No. 8 of 2008)
- Workers Compensation Act (No.10 of 1999)
- Mines Safety Act
- Minimum Wages and Conditions of Employment Act (No. 13 of 1994)

Scope of labour inspection

Areas covered by Labour Inspectors during the course of labour inspections include; wages/rate of pay, employment of children and young persons, working days/hours of work, annual leave, paid sick leave, maternity leave, provision of transport allowance, provision of lunch allowance, overtime allowance, funeral assistance, subsistence allowance, industrial relations, occupational safety and health standards, and social security and welfare.

Inspectors are responsible for a wide range of activities other than labour inspection, these include; conciliating disputes, processing workers compensation claims and for permits for foreign workers. On average, 75% of their time is spent on dealing with complaints and disputes.

Local divisions

The Labour Inspection Unit is divided into 21 District Labour Offices covering nine provinces. The District Labour Offices are headed by senior labour officers.

The Factory Inspectorate is based at the headquarters in Lusaka and has three field offices.

Programming and communication

Labour Inspectors are expected to conduct research on the occurrence of industrial disputes, issues of child labour and informal sector employment, and to design data capturing tools which are to be submitted to the Labour Commissioner for possible adoption. Quarterly reports are sent from the district labour offices to the headquarters in Lusaka. Procedurally, Labour Inspection forms are submitted to the Office of the Assistant Labour Commissioner who makes relevant observations and recommendations to the Labour Commissioner who will then direct the initiating officers. The final inspection report is then submitted to the Labour Commissioner who may provide guidance for appropriate intervention. The procedure in the OSH department is the same, with the central authority lying in the Director of OSH.

Current reforms

In 2006, the labour administration system underwent a series of changes: 1) a new integrated labour inspection form (18C) was introduced, serving as a checklist for inspections in the areas of working

conditions (health and safety), industrial relations and child labour; 2) the role of labour inspectors was refocused on inspections, so as to relieve them from duties that could be carried out by other labour officers; 3) inspectors and officers were upgraded to the “professional level” with the introduction of a university degree as the minimum entry qualification; 4) a number of longstanding officials approaching retirement age were redeployed or offered early retirement, with 45 graduates recruited to replace these posts and other vacancies.

In November 2007, the Labour Task Force was launched by the Ministry of Labour and Social Security. The mandate of the task force is to enforce and ensure adherence to national labour laws. The number of members of the task force has since risen from an initial 45 to 91. The task force has since been in action forcing closure of three companies flouting labour laws in the Lusaka area. The task force will also extend operations to other parts of the country.

The National Occupational Safety and Health policy for Zambia is currently being formulated.

Human Resources and career development

Permanency of inspectors

Labour Inspectors have low salaries and there is an absence of career prospects, as inspectors remain in the same grade even after receiving training. This has resulted in poor motivation and low morale. Both the Labour Inspection Unit and the Factory Inspectorate were understaffed in 2005, this undermines the stability and effectiveness of the system.

Selection process

Civil Service regulations demand that all vacant positions are to be advertised openly and fairly competed for, before an impartial interview panel. The panel comprises members of the Public Service Commission which presides over all matters related to assessment, selection and placement of Civil Servants. The Labour Commissioner shall issue to every labour officer a certificate of appointment. Factory Inspectors shall also be issued a certificate of appointment.

Background required

Under the new reform, the minimum entry qualification is a university degree.

Many Labour Inspectors requested the need for guidelines in using the new labour inspection form. They also admitted to have little knowledge of OSH standards and requested training.

Visits and functions

Types of visits

Inspectors decided by themselves when and which companies were to be inspected, which was usually limited to enterprises that were easily accessible.

Role of preventive measures

The current system is weak in promoting the prevention of occupational accidents and diseases. There is lack of support from the Ministry of Health and the Department of Mines, and lack of OSH inspectors and monitoring tools in the regions.

Programming

Inspections are neither regularly nor systematically undertaken due to the lack of an in-house planning and monitoring mechanism. The number of inspections per month per inspector is below the international norm of 20 per month. Concern was raised in particular over the low number of inspections in the agricultural sector.

Registries and reporting of accidents/diseases at work

As of 2006, no master register of establishments existed. No information on new places of employment was captured, details on existing establishments were limited and no information from previous inspections was retained.

The Department of Labour is required by law to produce annual reports which cover activities undertaken in all three facets of labour administration: labour inspections, industrial relations and employment.

Sanction and administrative processes

According to the Employment Act, any employer who delays or obstructs labour inspectors or labour officers in their duties will be guilty of an offence and liable to a fine not exceeding 2000 penalty units or to imprisonment for a period not exceeding 6 months. Continuing offenders will be subject to an additional fine not exceeding 200 penalty units for each day which the offence continues. In the case of a breach of contract or dispute that the labour officer considers to be a breach of the provisions of the Act, the labour officer may refer the matter to a court.

According to the Factories Act, any person who obstructs an inspector shall be guilty of an offence and liable on conviction to a fine not exceeding 300 penalty units or to imprisonment for a period not exceeding one month. The Chief Inspector of Factories has the power to send a written notice requiring the removal of

dangerous materials, and to suspend the operations of the factories until the requirements stated in the notice have been complied with. Any owner or occupier of a factory may submit his objection to the Commissioner, who shall determine the case and communicate his decision in writing. The decision of the Commissioner may be appealed to the Minister whose decision shall be final.

The Ministry received complaints on cases of non-compliance that were dealt with after the employers were contacted by phone by the Department of Labour. However, these complaints were not recorded in a proper register. In 2005, the Labour Inspection Unit did not issue any prosecutions, but some cases of violation of labour laws were referred to the Industrial Relations Court.

Social partners and labour inspection

The main social partners are the Zambian Congress of Trade Unions (ZCTU) and the Zambian Federation of Employers (ZFE). Worker and Employer organizations are consulted at tripartite gatherings on any policy document or formulation of legislation. Furthermore, they participate each time labour inspections are carried out. Annual Inspection Reports are made available to social partners.

Provisions in the Industrial and Labour Relations Act require tripartite partners to meet at least twice annually at the Consultative Labour Council. Each member is allowed to place items of interest on the agenda for discussion.

ILO Conventions ratified

Zambia has ratified Conventions No. 81, 129 and 155 in December 2013. Convention No. 150 was ratified in 1980.