

Labour Inspection Country Profile: Botswana

Labour Inspection Structure and organization

Name of institution that manages work issues

The Ministry of Labour and Home Affairs has a mandate to create and maintain national harmony, welfare and justice as an essential background for national unity, democracy and socio-economic development. (http://www.gov.bw/index.php?option=com_content&task=view&id=30&Itemid=40)

Department(s) in charge of Labour Inspection

The Department of Labour and Social Security within the Ministry of Labour and Home Affairs is responsible for labour matters and human resources development in conjunction with other government agencies. The department is headed by the Labour Commissioner, and the Labour Commissioner's Office carries out labour relations activities, work pertaining to the employment of non-citizens workmen's compensation, and registration of trade unions. Under the Labour Commissioner's Office is the Labour Relations and Welfare Division, which houses the Labour Inspection Unit. The Employment Act outlines the scope of labour inspection to include inspection of any workplace, housing arrangement, sanitary facility and food preparation facility.

Occupational Safety and Health comes under a separate division under the Ministry of Labour and undertakes factory inspection in all the regions. There have been past attempts to integrate the two into one department, but this was unsuccessful due to the difference in the educational level between factory inspectors and labour inspectors.

Laws that cover organization and functional composition

- Trade Unions and Employers Organisations Act (2003)
- Employment Act (1982), amendment (1992) No.26 and (2003) No. 14
- Trade Disputes Act (1982)
- Employment of Non-Citizens Act (1981)
- Workmen's Compensation Act (1998)
- Regulations for Industrial Employees (1988)
- Factories Act (1973)

Scope of labour inspection

The Ministry enforces the following Acts: Employment Act, Employment of Non-Citizens Act, Trade Disputes Act, Factories Act, Workers' Compensation Act and the Wages Regulation Order. The Factory Inspectorate under the Occupational Health and Safety division is responsible for enforcing the Factories Act, the remaining ones are enforced by the Department of Labour. Areas covered by labour legislation and subject to inspection include hours of work, overtime, rest period, paid public holidays, probation period, notice period, paid sick leave, long term benefits, maternity allowance, safety and health and employment of children.

Local divisions

The services of the Labour Inspectorate in the field are carried out by labour officers in five Regional Labour Offices and 16 district labour offices. The duties of field labour officers include inspections, managing strikes and lockouts, dealing with complaints, issuing work permits and registration, placement of unemployed workers, revenue collection and dealing with workers' compensation. At the HQ, there is a unit that deals with disputes and with the conciliation and mediation of labour disputes. Factory inspectors operate out of HQ, and there are no field offices.

Programming and communication

The Senior Labour Officers, in each of the districts, report to the Regional Labour Officer, who then reports to the Labour Commissioner. The Factory Inspectors report directly to headquarters. There is currently lack of communication between the Factory Inspectorate, the Workers' Compensation Unit and the Labour Inspection Unit.

Current reforms

At the time of the inspection audit (2005), there were discussions of revising the Factories Act to cover the public sector, agriculture and commercial services, and to incorporate a drift towards a preventive culture. At the time of writing the labour profile (June 2009), no information on such a reform could be found. Labour inspectors are still involved in dispute settlement, however the department is now undergoing reforms to establish two distinct units for labour inspection and dispute resolution.

Human Resources and career development

Permanency of inspectors

Labour inspection staffs are officers of the Department of Labour only. Both labour and factory inspectors are subject to the conditions of service for public officials. There is poor motivation due to low salaries and limited career prospects.

Selection process

Public officers may be appointed by the Minister as labour officers or as factory inspectors. Notices of the designation or appointment of factory inspectors are published in the Gazette.

Background required

Labour inspectors have mixed backgrounds, some are graduates and others are non-graduates. The inspectors within the OSH division are mainly engineers and science graduates.

The 2005 audit report suggested that the minimum acceptable qualification should be a university education. The report also stated the need for more stringent entry qualifications and requirements (including examinations) for the recruitment of new officials.

Labour inspectors receive on the job training. Many labour inspectors interviewed indicated the need for guidelines, in the completion of inspection forms and admitted to having little knowledge of OSH standards. They also requested training in labour law, preventive culture, negotiating skills, writing proper accident reports, accident analysis, recording of evidence, computer literacy and pamphlets on labour laws.

Visits and functions

Types of visits

In the present system, labour inspectors have considerable autonomy in choosing the establishment they wish to inspect.

Role of preventive measures

Technical advice to employers and workers aimed at improving compliance is done during inspection visits and through the departmental radio program. At the time of the labour inspection audit, there was also discussion of arranging a national OSH week in 2006 which would involve workers, employers and national safety associations.

However, the promotion of the prevention of occupational accidents and diseases in general is weak. There is lack of support from the Health Ministry and the Ministry of Mines and lack of communication between the Labour Inspection Unit and the Factory Inspectorate. There is also lack of monitoring tools and factory inspectors in the regions.

Programming

Inspections had been undertaken regularly and systematically in the past. However, due to the lack of an in-house mechanism to plan, monitor and evaluate the general inspection system, there has been a decrease in the number of inspections and a corresponding decrease in the number of contraventions. There is lack of target settings and performance appraisals to monitor the quantity and quality of inspections. Policy-design, monitoring and evaluation at headquarters are clearly separated from service delivery at the field level.

Registries and reporting of accidents/diseases at work

The number of inspections undertaken varies by district. Inspectors are expected to do at least 20 inspections a month, but these targets have not been met in recent years. Reports on labour inspections are compiled after every inspection visit. The reports indicate which provisions have been contravened, and provide advice on the corrective actions that are to be taken. The Research Information and Statistics Unit also compiles an annual report that covers inspection activities, but this excludes inspection information from the Factory Inspectorate.

As of 2005, no active register containing the lists of establishments, updates of new places of employment and previous inspections existed. There was limited information on the then-existing establishments. There were also no records of the complaints that had been dealt with by the Department of Labour.

Sanction and administrative processes

Labour officers, under the Labour Inspectorate may demand (in writing to the employer) the suspension of the use of hazardous materials and equipment until the item is repaired or replaced. The labour officer may also in writing require the employer to meet him in the public office to discuss matters that are under the provision of the Acts. Employers are allowed to appeal the decisions (directive or prohibition) of the labour officers in writing to the Minister within 21 days. Anyone who wilfully delays or obstructs the labour officer in the delivery of his duties shall be guilty of an offence and liable to fines from P500-P2000 or imprisonment of up to 18 months.

Individuals who obstruct Inspectors from the Factory Inspectorate from fulfilling their duties shall be guilty of an offence and liable to a fine of R50 and to imprisonment for 2 months. The court has the power to order the owner of the factory to take further steps for remedying the contravention.

Social partners and labour inspection

The main social partners are Botswana Federation of Trade Unions (BFTU) and Botswana Confederation of Commerce, Industry and Manpower (BOCCIM). The following tripartite bodies exist in Botswana: National Advisory Board for Apprenticeship and Industrial Training; Labour Advisory Board; Minimum Wages Advisory Board; National Employment, Manpower and Incomes Council.

Collaboration between employers and workers or their representative organizations is promoted through their involvement in workshops and seminars on labour inspections.

ILO Conventions ratified

Botswana has not ratified Conventions No. 81, 129, 150 nor 155.