

Labour Inspection Structure and organization

Name of institution that manages work issues

[The Ministry of Labour](#) has a mandate over all issues concerning labour, employment, manpower planning and development.

Department(s) responsible for Labour Inspection

Kenya's Ministry of Labour oversees a dual system of inspection covering on the one hand general labour inspection (Labour Department) and on the other, occupational safety and health (Directorate of Occupational Safety and Health Services (DOSHS)). The Labour Department is divided into two divisions: labour and employment. The labour division is further divided into three units covering child labour, workers' compensation and industrial relations. The DOSHS is divided into several divisions, Inspectorate, Medical, Hygiene, Work injury benefits, Institute of Occupational Health and Safety, Safety; and Administrative support.

There are other bodies within and outside the MAPESS performing functions related to labour inspection, specifically Inspection Department of the National Social Security Institute (INSS) who verifies compliance with the obligations of membership and payment of social contributions. Usually joint inspections are carried out with labour inspectors. There are other inspection bodies in different sectors: oil, agriculture, fishing, mining, industry, transport, education, health and finance.

Law that covers organization and functional composition

Employment Act

Occupational Safety and Health Act, 2007

Workers' Injury Benefit Act, 2007

Industrial Relations Act 2007

Scope of labour inspection

The DOSHS is responsible for enforcing two pieces of legislation: the Occupational Safety and Health Act, 2007 and the Workers' Injury Benefit Act, 2007. The monitoring and enforcement of the Employment Act and the Industrial Relations Act (2007) is the responsibility of the Labour Department. The Employment Act applies to all employees employed by any employer under a contract of service and excludes the armed forces, police, prisons service, the National Youth Service and family undertakings. The Occupational Safety and Health Act applies to all workplaces where any person is at work, whether temporarily or permanently.

All labour officers within the MOL have the capacity of labour inspectors although a large portion of their time is devoted to resolving labour disputes.

Local divisions

The institutional structure of the MOL is divided into three layers: at the top are the Ministry's headquarters in Nairobi, followed by 8 Provincial Labour Offices and 20 District Labour Offices.

Programming and communication

Labour and OSH inspections are planned in the MoL annual plan. The two inspection systems operate independently with limited cooperation or collaboration between them apart from few joint visits and the occasional sharing of information and transportation. Labour and OSH inspectors are not always located in the same premises, which itself is an impediment to improved communication and coordination. If labour inspectors come across hazardous working conditions in an enterprise, they commonly pass along this information to OSH inspectors. By and large, information gathered in the course of OSH visits is not systematically shared with labour inspectors.

Communication between the District Offices and Labour Department in Nairobi is sporadic but does take place. The usual channel of communication, however, is with the Provincial Labour Office.

Current reforms

The government intends to transform DOSHS from a Ministry department into a semi-autonomous agency to be renamed the Occupational Safety, Health and Injury Benefits Authority (OSHIBA). This new status would give the new Authority greater managerial and budgetary independence while the overall policy direction and responsibility would remain with the MOL.

Human Resources and career development

Permanency of inspectors

Labour inspectors are civil servants.

Selection process

There are few recruitment practices as the last new hire in the Ministry took place in 1994. In the MoL there are limited opportunities for professional development and promotion.

Background required and training

Labour officers require a general university level degree, although this is not a requirement in every case and depends on the official's grading. Even with this requirement, it is common that the degrees held by staff members do not relate to their area of technical responsibility. Most officers receive on the job training, which consists mostly of an induction course upon hiring without further training by way of professional development. OSH inspectors generally have specific technical background in their area of expertise (occupational medicine, engineering etc.), whereas general labour inspectors do not typically have a relevant educational background and receive only minimal on the job training related to their role as inspectors. Currently, as officers become exposed to the inspectorate work, they are encouraged to pursue training in local institutions on a self-sponsoring basis with a percentage refunded from the Ministry upon completion.

Visits and functions

Types of visits

Most visits are conducted unannounced and take place in both formal and informal enterprises.

Role of preventive measures

There is a strong emphasis on voluntary compliance and developing a culture of workplace safety. The new Act is more proactive in its orientation, promoting the introduction of systems at the workplace so employers do not view OSH as simply a matter of policing and inspection but rather giving direct responsibility for improving working conditions. In early 2005 the Kenyan government undertook a campaign against hazardous working conditions, threatening to close factories that put their workers' health at risk.

In addition to its inspection activities, DOSHS carries out awareness raising campaigns among workers and employers, particularly through training activities with workplace health and safety committees in enterprises with 20 or more employees. This training is largely delivered through partnerships with private institutions licensed by DOSHS.

Programming

The selection of workplaces for inspection is planned every week based on the monthly performance contract targets in addition to individual complaints. The overall objective is to carry out OSH inspections in each enterprise at least once every two years.

Registries and reporting of accidents/diseases at work

Enterprise information is sent to the MoL by labour inspectors, but this information is not systematically organized and field officers note that they do not rely on this data for planning inspection activities. There is no computer networking capability and information is currently paper based.

The Labour Department has come up with its own accident reporting form to be completed by the employer and sent directly to the Department. The obligation for medical practitioners to notify occupational diseases to the OSH Services is not functioning in practice as medical practitioners are not adequately sensitized, bearing in mind the complexity of diagnosing occupational diseases.

Sanction and administrative processes

Labour inspectors do not have recourse to fines or other penalties if they should come across a workplace violation. There are no laws or regulations dealing with fines or sanctions in such cases. Even in grave cases inspectors do not have the legal authority to take action against the enterprise by, ordering a closure of operations. Inspectors send a compliance letter to the employer giving a period of time (depending upon the nature of the infraction) to correct the violation and bring their practices into conformity with the law.

Social dialogue and labour inspection

In terms of partnerships, workers' and employers' organizations are not very involved in the labour inspection function of the MOL – whether in terms of policy planning, programming or awareness rising.

ILO Conventions ratified in the field of labour inspection

Kenya has ratified the Labour Inspection Convention, 1947 (No. 81) in 1964 as well as the Labour Inspection (Agriculture) Convention, 1969 (No. 129) in 1979.

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