

HARYANA GOVERNMENT
LABOUR DEPARTMENT

NOTIFICATION

Dated: 5th July 2017

No.: 6/50/2017-1Lab It is hereby ordered to mandate that henceforth the statutory inspections of the factories, shops and commercial establishments under various labour laws in the State shall be carried out on the guidelines provided in the Transparent Inspection Policy (Annexure) in which selection of units to be inspected will be based on specific risk based criteria, norms and methodology specified therein. The employers/occupiers shall submit Self Certification / Third party Certification to seek exemption under this Transparent Inspection Policy.

Dated: 29.06.2017

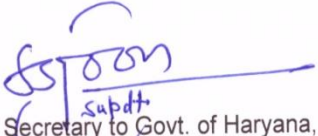
(Vijai Vardhan)
Additional Chief Secretary to Govt. of Haryana,
Labour Department.

Endst. No. 6/50/2017-1Lab

Dated:- 5.06.2017

A copy is forwarded to the following for information and necessary action:-

- 1) Labour Commissioner, Haryana, Chandigarh.
- 2) Additional Labour Commissioner (NCR), Gurugram.
- 3) Additional Labour Commissioner, Haryana, Chandigarh.
- 4) Additional Director (IS&H), Haryana, Chandigarh.
- 5) Joint Secretary, HBOCWW Board.
- 6) Joint Director, IS&H, NCR – Gurugram.
- 7) All Deputy Directors (IS&H) in the State.
- 8) All Deputy Labour Commissioners in the State.
- 9) Deputy Labour Commissioner (Welfare), in the State.
- 10) All Assistant Directors (IS&H) in the State.
- 11) All Assistant Directors (IS&H), Chemical in the State.
- 12) All Assistant Labour Commissioners in the State.
- 13) All Welfare Officers, HLW Board in the State.
- 14) All Labour Inspectors in the State.


Subdt
for Additional Chief Secretary to Govt. of Haryana,
Labour Department.

LABOUR DEPARTMENT, HARYANA
TRANSPARENT INSPECTION POLICY (AMENDMENT, 2017)

The Labour Department Haryana implements various provisions related to safety, health, welfare and other conditions of employment under various labour laws. In order to ensure the compliance of various provisions under these enactments, the Department has notified various functionaries for the inspection of the establishments/factories. Although inspection guidelines have been framed in the past, but these have not been implemented properly; besides there have been some complaints of adhocism in the inspections. The prevalent instructions/guidelines are not conforming to the use of Information Technology, which has to be brought into fore in the near future. Therefore, a new comprehensive transparent inspection policy is required to be put in place with the following objectives:-

- ***To achieve the objective of simplifying business regulations.***
- ***To regulate the implementation of statutory provisions under various labour laws in transparent and accountable manner through wide scale adoption of technology and innovation***
- ***To protect the rights of workers in relation to their Safety, Health and Welfare as also other conditions of employment in the spirit and manner as envisaged in the law.***
- ***To eliminate the arbitrariness and adhocism in the actions of inspecting authorities as also to curb the malpractices and harassment of the industrial and other establishments with a view to improve the ease of doing business.***

Part-A

Transparent Inspection Scheme-Industrial Safety & Health Wing

1. Exemption of low risk Factories from Labour compliance inspections under all Labour Laws.

As a part of Ease of Doing Business and in compliance of the provisions of State Enterprise Promotion Policy, 2015, the following categories of factories shall be exempted from physical inspections under all labour laws.

- (i) All the non-hazardous Factories having valid license/registration employing less than 50 workers who opted for Self Certification Scheme and has submitted the single return under various labour laws.
- (ii) Start-up Establishments for a period of two years from the date of commencement of work/business.
- (iii) Establishment having no employee i.e. employing family members only.
- (iv) Any other Establishment specifically exempted by Government from time to time.
- (v) Establishment under SEZ.

2. Criteria for Inspection:

- **Industrial Safety Wing**

The most contentious issue in conducting the inspection is selection of the establishment/unit by adopting the predetermined criteria. It has been decided that each manufacturing unit shall be categorized in three groups based upon the level of hazards involved as enumerated in the laws i.e.

- (i) Major Accident Hazardous,
- (ii) Hazardous,
- (iii) Non Hazardous

The selections of units for inspections shall be determined by taking into account the nature of hazard in the industry, the time period since last inspection and number of workers employed. Such list of industries will be reviewed quarterly for addition/deletion of units found to be sensitive in terms of industrial relations/unrest, complaints received against some industries etc.

The periodicity of inspection shall be in accordance to the following criteria: -

- a) Every MAH unit shall be inspected once in a year.
- b) All the Hazardous units involving risk of fire, explosion and toxic release are to be inspected once in every two-year.

- c) The non-hazardous units are to be inspected once in every five year except the units exempted at para-1 (I to V).

3. Preparation of quarterly list of inspection of factories/establishments by computerized randomly generated system:

The list of units for inspections shall be prepared one month in advance for every quarter. The office of Chief Inspector of Factories, Haryana, Chandigarh shall finalize the list of factories to be inspected during the next quarter by computerized randomly generating system based on the pre-determined criteria of selection. This list shall be made available to the public on Departmental web portal and also sent to the field-inspecting officers.

4. Inspection Criteria:

The inspections shall be conducted by the individual officer or a team of maximum three officers of the department. The Inspecting Officer/ team of inspecting officers shall be selected by the computerized system preferably in the following manner but shall be finalized by the Chief Inspector of Factories, Haryana, keeping in view the number of unit in particular slab in the particular area of jurisdiction:-

Sr. No	No. of workers employed	Inspecting officers
1	Non Hazardous Units employing up to 50workers	Exempted (As per Para-1)
2	Up to 250 (except Non Hazardous Units employing up to 50 workers)	Assistant Director (IS&H) or Assistant Director (IS&H), Chemical
3	251 to 1000	Deputy Director (IS&H)
4	Above 1000	Joint Director (IS&H)

Note:

- (i) *The Chief Inspector of Factories-cum-Labour Commissioner may change the inspecting Officer/Officers at any point of time.*
- (ii) *Inspecting Officer shall ensure that he will not inspect the same factory/establishment under all labour laws twice consecutively even if he has been appointed as a member of the inspecting team by mistake.*
- (iii) *If Assistant Director(IS&H) found any unregistered factory in his respective jurisdiction, he will register the same under the Factories Act, 1948 and upload registration report at the Departmental Website www.hrylabour.gov.in within 24 hours.*
- (iv) *The Chief Inspector of Factories on receipt of information about any un-registered / un-covered factory or any complaint of violations of the provisions made under the Factories Act, 1948 and Rules framed there-under, may direct any officer or a team of officers of the Labour Department to inspect such factory.*

5. The information to the owner/management of units about date and time of inspection:

The inspecting officer shall give 15-days' notice prior to the date of inspection to the management along-with the checklist for the inspection. However the checklists and inspection proforma are available on the Departmental Website i.e. www.hrylabour.gov.in .

6. The preparation and uploading of inspection report on the web site:

The inspection report shall be prepared and uploaded with-in 24 hours from the date of completion of inspection by the inspecting officer (s) on the departmental website i.e. www.hrylabour.gov.in against the ID of the factory which shall be accessible by the officers in the department and the owner of the inspected factory. The inspection report may also be supplied to the management at his place of business with a copy to the Chief Inspector of Factories, Haryana Chandigarh. A show cause notice as prescribed on behalf of Chief Inspector of Factories, Haryana giving one month time for compliance to the management shall also be delivered along with the copy of inspection report.

7. Medical Examination of the workers employed in the Factories:

Deputy Director(IH) and Assistant Director(IH)cum Certifying Surgeon will conduct medical examination only in the factories involving health hazardous processes and hold special health camps for the diagnosis of occupational diseases like silicosis, lead poisoning, asbestosis, Tuberculosis, Fibrosis etc. in the factories like Brick kilns, Stone Crushers, Saw mills, Lead processing units.

8. Compliance by the management:

The Labour Department, Haryana enforces the statutory provisions under various labour laws to protect the statutory rights of the workers by way of **proactive approach**. Therefore, management shall be provided ample opportunities for the compliance of the observation made by the inspecting office/officers. The action on the inspection report shall be the last resort in case of non-compliance by the management even after the best efforts by the department.

Note:

In case the Chief Inspector of Factories-cum-Labour Commissioner is not satisfied with the compliance report submitted by the management, he may order to physically verify the actual status of the compliance report.

9. Inspection of construction sites under Building & Other Construction Workers (RE&CS) Act, 1996:

There is no permanent data-base of the construction sites in the Department as the construction sites are temporary in nature and exist for a short period. The inspection of the

unregistered sites shall be conducted by the Assistant Director/Deputy Director, Industrial Safety & Health of the area concerned, as and when it came to their knowledge. The inspection of the registered site shall be conducted with prior approval of Chief Inspector of Inspection, Haryana, Chandigarh. But in case it came to the knowledge of the inspection officer of the area concerned that there is imminent danger to the construction workers working at the construction site, he may immediately inspect the site with prior intimation to the Chief Inspector of Inspections, Haryana telephonically or through e-mail and shall submit his report within 24 hours to the Head Office.

10. Accident enquiries:

In case of serious accident, the enquiry shall be conducted by concerned Assistant Director, Industrial Safety & Health and the enquiry of all fatal accidents shall be conducted by the concerned Deputy Director, Industrial Safety & Health. The enquiry reports shall be sent to head office within 48 hours of completion of enquiry. The enquiry report shall be submitted within 30 days to head office from the date on which it comes to the knowledge of enquiry officer.

Part B
Transparent Inspection Scheme – Labour Wing

1. Exemption from Labour compliance inspections under all Labour Laws.

As a part of Ease of Doing Business and in compliance of the provisions of State Enterprise Promotion Policy, 2015, the service sector units employing less than 50 workers shall be exempted from the inspections unless there is a specific case of non- payment of minimum rates of wages notified by the Government or some other serious complaint.

2. Third Party Certification.

Third Party Certification shall be recognized by the Labour Department. Such certification will be permissible only by a Company Secretary who has not been an employee or on the regular pay role of the establishment or has not been a consultant of the company for the last three years. The units which submit third party certification regularly on annual basis shall not be inspected through the random list of inspections. Such units will be inspected only in the event of serious complaints or unrest etc.

3. Inspection Criteria:

The primary task of the labour wing is maintenance of industrial peace and grievance redressal and the inspections under the various labour laws are conducted only to provide corollary support for compliance of labour laws, therefore, henceforth there shall be no quota of inspections for the field staff.

Therefore, the fundamental criteria for the computerized identification of units based upon risk assessment for statutory inspections and also for the purpose of grievance redressal for corollary support for maintenance of industrial peace would be as follow:-

Observations and Complaints regarding:-

- (a) Non entry of names of workers in the muster roll or non maintenance of statutory record – which logically leads to violation of various labour laws.
- (b) Non-payment of wages or less payment of wages than minimum rates of wages in violation of the Minimum Wages Act, 1948 and the Payment of Wages Act, 1936.
- (c) Industrial disputes of serious nature and apprehended breach of law or industrial peace due to such disputes.
- (d) Non maintenance of facilities for security health and welfare for women employed in the night shift, in accordance with the directions of the Hon'ble Supreme Court and the preconditions laid down in the permission for the purpose; or employment of women in the night without proper permission as per law.
- (e) Deployment of contract labour to the extent of 50% or more of the total strength of manpower.

- (f) Non remittance of contributions to the Labour Welfare Fund under the Punjab Welfare fund Act, 1965.

Accordingly, the list of units to be inspected will be prepared separately for the labour wing at head office and the inspection will be of two types –

- i) Inspections based on risk assessment of units whose names are randomly generated by the computer from available database of establishments on the website; such inspections will be on the basis of criteria listed at (d), (e) and (f) mentioned above.
- ii) Inspections on the basis of complaints and information received from the field Officers on real time basis on the basis of criteria listed in (a), (b) and (c) above. This information will also have to be provided by the field Officers in their reports regularly to enable the O/o Labour Commissioner to assess the requirement of inspection.

As stated above, the primary concern would be non-entry of names of workers on the muster roll, the non-payment of wages or less payment of wages, if detected during the inspections for which legal action will be initiated only after giving the employer ample opportunity for taking corrective action. However If there is some other deficiency of maintenance of record which is not vital to secure such rights of the workers as mentioned above, then all efforts will be made to get the compliance done by the employer and there will be no prosecution.

The restrictions and guidelines in this Transparent Inspection Scheme would not apply for inspections regarding Child Labour and Bonded Labour; as also for units which have not been registered under any law.

The inspecting officer shall give 15-days' notice prior to the date of inspection to the management.

4. Complaint Based Inspection.

The complaints received through CM complaints cell, / District Administration/ Trade Unions / Workers or complaint related to existing dispute/litigation shall be attended promptly. This information will also have to be provided by the field Officers in their reports regularly to enable the O/ Labour Commissioner to assess the requirement of inspection. If required, the inspection in pursuance of such complaints shall also be conducted besides the inspections under the Policy but with the prior intimation / approval of the Labour Commissioner, Haryana.

Complaints received directly from the workers or by Unions / representatives with critical issues and those given in general must be distinguished and action be taken as per priority.

5. Inspecting Officer:-

The inspections shall be conducted by the individual officer or a team of maximum three officers of the Labour Department.. The Inspecting Officer / team of inspecting officers shall be selected by the computerized system preferably in the following manner but shall be finalized by Labour Commissioner, Haryana, keeping in view the number of unit in particular slab in the particular area of jurisdiction:-

Sr. No	No. of workers employed	Inspecting officers
1.	Service sector units employing less than 50 workers.	Exempted
2.	Up to 250	Assistant Labour Commissioner
3.	Above 250	Deputy Labour Commissioner

Note:

- (i) **The Labour Commissioner may change the inspecting Officer/Officers at any point of time.**
- (ii) *Inspecting Officer shall ensure that he will not inspect the same factory / establishment under all labour laws twice consecutively even if he has been appointed as a member of the inspecting team by mistake.*
- (iii) *The Labour Inspectors will not inspect any establishment separately except units lacking in registration under the Shops and Commercial Establishments Act, 1958.*

6. Preparation of quarterly list of inspection of establishments by computerized randomly generated system:

The office of Labour Commissioner Haryana, Chandigarh shall finalize the list of establishment to be inspected during the next quarter by computerized randomly generating system based on the pre-determined criteria of selection mentioned above. This list shall be made available to the public on Departmental web portal and also sent to the field-inspecting officers. The Inspecting Officers shall be allocated through a computer program ensuring that the same Inspector will not inspect the same establishment twice consecutively. The joint inspection of factories by labour wing and the industrial safety wing if required will be selectively directed by head office only.

7. The preparation and uploading of inspection report on the web site:

The inspection report shall be prepared and uploaded with-in 24 hours from the date of completion of inspection by the inspecting officer (s) on the departmental website i.e. www.hrylabour.gov.in against the ID of the factory / establishment which shall be accessible to the officers in the department and the owner of the inspected factory / establishment. The inspection report may also be supplied to the management at his place of business with a copy to the Labour Commissioner, Haryana Chandigarh. A show cause notice shall be given

by the competent authority giving one month time for compliance to the management shall also be delivered along with the copy of inspection report.

8. Compliance by the management:

The Labour Department, Haryana enforces the statutory provisions under various labour laws to protect the statutory rights of the workers by way of proactive approach. Therefore, management shall be provided ample opportunities for the compliance of the observation made by the inspecting office/officers. **The principle would be that the prosecution shall be for defiance to comply and not merely violation except in case of serious offence.**

- a) The inspections of units where the number of workers is upto 250 will be regulated at the level of Assistant Labour Commissioner after proper hearing of the employer. The prosecution for non-payment of wages or payment of less than minimum rates of wages can be launched only after filing of claim under the relevant provisions of Labour Laws and permission from the competent authority.
- b) The inspections of units with workers above 250 will be regulated at the level of the Dy. Labour Commissioners after proper hearing of the employer.
- c) It is clarified that no notice of inspection shall be issued to the management at the level of the Labour Inspector; and even the Senior Officers shall not issue any letter for inspection or production of record other than those permitted in the list by the Labour Commissioner

In general, the violations where the sanctioning power is with the local officer shall be decided by the Dy. Labour Commissioner and the laws where the power to sanction prosecution is with the Govt. then the hearing will be at the level of head office; and the prosecution will be sanctioned accordingly. The principle would that prosecution shall be for defiance to comply and not violation except in the case of serious offences.

9. Synchronized/Joint Inspection

The department shall ensure that the inspection under all labour laws including the Equal Remuneration Act 1976, the Factory Act, 1948, the Maternity Benefit Act, 1961, the Minimum Wages Act, 1948, the Punjab Shops & Establishments Act, 1958, the Punjab Welfare fund Act, 1965, the Payment of Bonus Act, 1965, the Payment of wages Act, 1936, the Payment of Gratuity Act, 1972, the Contract Labour (Regulation and Abolition Act, 1970, the Industrial Establishments (National & Festival Holidays & Casual and Sick Leave) Act, 1965 and the Building & Other Construction Workers Act, 1996 shall be conducted jointly in synchronized manner by the team of maximum three inspecting officers of the labour department.