

General Procedures and Checklist for Inspection under various Labour Laws administered by Labour Commissionerate

Enforcement of Labour Laws and Rules and Regulations framed thereunder is the primary responsibility of the inspectors of the Labour Commissionerate. Inspectors must be well conversant with the provisions of different labour laws and rules framed there under for the purpose of inspection.

General Procedure for inspection

Inspectors shall inspect the work places in their respective areas as often and as thoroughly as is necessary to ensure the effective implementation of relevant provisions of labour laws like

The Equal Remuneration Act, 1976

The Minimum Wages Act, 1948,

The Payment of Bonus Act, 1965,

The Payment of Wages Act, 1936,

The Payment of Gratuity Act, 1972,

The Contract Labour (regulation & Abolition) Act, 1970,

The West Bengal Shops & Establishments Act, 1963 etc..

For carrying out inspection effectively and effective implementation of legal provisions it would be better for the inspector to collect background information about:

- a) Location of the establishment
- b) Number of workers engaged therein
- c) Nature of work carried in the establishment
- d) Previous violation of law and action taken
- e) Complaint letter, if any, against management
- f) Existence of trade union, if any, in the establishment
- g) Rates of minimum wages, if applicable

Inspector will enter the premises of the establishment either with or without prior intimation to the employer and operating trade unions, if any.

Inspector may discuss with or interrogate the employees employed therein regarding compliance of various provisions of the respective Acts and related matters. Inspector should preferably note in the inspection note the name of the workers interviewed, his / their nature of work, matters connected to their employment, permanent address, etc.

Inspector may see physically compliance of various provisions of the Act including maintenance of statutory registers, filing of returns, etc.

Inspector will prepare inspection note , in duplicate, mentioning violation detected during the inspection, particulars of the employer, etc. and will hand it over to the employer or his representative present over there with due acknowledgement. Employers are normally instructed to remove the defects detected during inspection and report compliance thereof within a specified date mentioned in the inspection note.

Inspector shall upload the inspection note within 48 hours of inspection.

In case of non-compliance of the instruction show cause notice is issued to the employer. In case of compliance of the instruction the proceedings are normally let-off with the approval of ALC / DLC. In case of non receipt of reply to the show cause notice or receipt of unsatisfactory reply thereto prosecution is lodged before the court of law after getting approval from ALC / DLC or the appropriate authority as the case may be.

Normal checklist under some Acts and Rules framed thereunder is appended below:

Re-engineered Procedure for Inspection under various Labour Laws administered by Labour Commissionerate:-

1.a) In the present system, an inspector, under normal circumstances, is directed by the appropriate authority through computerised allocation to conduct inspection in establishment(s) selected on the basis of computerised assessment of risk of the establishments in a particular geographical area.

b) The inspectors may also be directed to conduct inspection under particular labour laws to enforce compliance in the form of Special Drive, Complaint, Instruction from Higher Authorities, Courts etc. from time to time.

2.a) Before the inspection, the inspector visits the [URL:http://www.wblc.gov.in](http://www.wblc.gov.in) and logs in using user credential.

b) The inspector will land up in his/her dashboard.

c) The inspector is required to click on the INSPECTION menu from the Left Hand Menu Bar in his/her dashboard.

d) The inspector will then click on BLANK INSPECTION NOTE UNDER VARIOUS ACT & PRINT button to take a print out of the inspection notes of the Acts and Rules under which he is going to conduct inspection.

3. The inspector now will visit the establishment allotted to him to undertake inspection under various labour laws. He/She will enter the premises with or without prior intimation to the employer and operating trade union, if any, as the case may be.

4. The inspector may discuss with or interrogate the employees employed therein in respect of compliance of various provisions of the labour laws relevant to the establishment. He/she will inspect the establishment, check various records and registers.

5. The inspector will preferably make entries in the inspection note, which shall be prepared in duplicate, the following:-

a) the details of the establishment with nature of business carried on

b) categories of employees/workmen

c) name of the persons present at the time of inspection

d) the name(s), nature of work, designation address etc. of the workers/employees engaged therein

e) details of ownership of the establishment

6. After obtaining the basic information about the establishment, the inspector will physically verify the compliance under various provisions of the Acts and Rules made thereunder including maintenance of Statutory Registers and Filing of Returns etc.

In case of detection of any infringements/violation, the inspector shall mandatorily mention those in the Inspection Note.

7. Thus the inspector shall prepare the inspection note, in duplicate, and on being satisfied about the completeness of inspection note, shall sign on both the copies and hand over one copy to the employer/representative of the employer with due acknowledgement. Normally, the employer/owner of the establishment is/are requested to remove the defects detected during inspection and report compliance thereof within a specified date and time as mentioned in the inspection note.

8. a) The inspector will now log in to www.wblc.gov.in and click on the NEW INSPECTION button in his/her dashboard. After selecting the relevant Act under which he/she has conducted inspection, a blank Inspection Note page will appear.

b) On the basis of information collected and infringements/violations detected during inspection, the inspector is now required to fill up the fields with relevant data in ESTABLISHMENT DETAILS, OWNERSHIP/EMPLOYER DETAILS and INFRINGEMENTS tabs under Online inspection note.

c) After verifying all the information with the hard copy of the original inspection note, the inspector will mention the date, time and place where compliance could be reported and submit the online inspection note

d) The inspector then will upload the scanned copy of the original inspection note and click on the SUBMIT & SEND SMS button. This will trigger the system to send SMS containing reference no in respect of the inspection to the mobile no of the employer/owner or representative of employer/owner. However, the inspector can prepare the inspection note directly through the system if facilities like connectivity, printing, scanning etc. are available on spot.

e) The employer/owner of the establishment may click on the View & Download on the Homepage of URL: <http://wblc.gov.in> and after providing the reference no. may view and also download the inspection report.

9. The inspector is required to upload the inspection report within 48 hours of conducting such inspection.

10. After the submission of inspection note and uploading thereof, the Employer/Owner of the establishment in which inspection was conducted will normally report for compliance on the date, time and place as mentioned in the inspection note by the inspector.

However, there are some responses that the employer/owner may take recourse to based on which the inspector will take further action:-

A. The Employer/Owner reports for compliance:-

i) The employer /owner removes the defects fully:-

Action to be taken by the Inspector:-

The inspector will initiate procedure for approval from the appropriate authority for Let-off of the defects/infringements which have been complied with. A system generated proposal for let-off containing a comprehensive report generated by the inspector using his/her user credential may be forwarded online to the appropriate authority along with all the necessary attachments.

The Appropriate Authority, after verifying the report of the inspector may approve the Let-off or may send back for further correction or further action.

ii) The employer /owner remove the defects partially:-

Action to be taken by the Inspector:-

a) The inspector may allow further time for compliance.

b) The inspector will initiate procedure for approval from the appropriate authority for Let-off of the defects/infringements which have been complied with. A system generated proposal for let-off containing a comprehensive report generated by the inspector using his/her user credential may be forwarded online to the appropriate authority along with all the necessary attachments.

The Appropriate Authority, after verifying the report of the inspector may approve the Let-off or may send back for further correction or further action.

c) The inspector will simultaneously initiate procedure for approval from the appropriate authority for launching court –case in respect of defects/infringements for which compliance has not been received from the employer/owner even after providing reasonable opportunity.

d) After receipt of approval from the appropriate authority, the inspector shall generate computerised court case challan, take print –out of the same and launch the case in the appropriate court.

B. The Employer/Owner does not report for compliance:-

Action to be taken by the inspector:-

i) In this situation the inspector will log in to the system and select the particular inspection from the INSPECTION LIST and issue a system generated show-cause notice which will be signed and uploaded by the inspector and subsequently be forwarded to the Employer/Owner. The Show-cause notice may be verified by the employer/owner from the dashboard.

Response of the employer/owner after the receipt of Show-cause Notice:-

i) The employer /owner removes the defects fully:-

Action to be taken by the Inspector:-

The inspector will initiate procedure for approval from the appropriate authority for Let-off of the defects/infringements which have been complied with. A system generated proposal for let-off containing a comprehensive report generated by the inspector using his/her user credential may be forwarded online to the appropriate authority along with all the necessary attachments.

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The Appropriate Authority, after verifying the report of the inspector may approve the Let-off or may send back for further correction or further action.

c) The inspector will simultaneously initiate procedure in the form of a proposal for approval from the appropriate authority for launching court –case in respect of defects/infringements for which compliance has not been received from the employer/owner even after providing reasonable opportunity.

The Appropriate Authority, after verifying the report of the inspector may approve online the proposal for launching of court –case or may send back for further correction or further action.

d) After receipt of approval from the appropriate authority, the inspector shall log in to land up in his/her dashboard and generate computerised court case challan, take print –out of the same and launch the case in the appropriate court.

iii) The employer/owner does not make a response to the Show-cause Notice:-

a) The inspector will initiate procedure in the form of a proposal for approval from the appropriate authority for launching court–case in respect of

defects/infringements for which compliance has not been received from the employer/owner even after providing reasonable opportunity.

b) The Appropriate Authority, after verifying the report of the inspector may approve online the proposal for launching of court –case or may send back for further correction or further action.

c) After receipt of approval from the appropriate authority, the inspector shall log in to land up in his/her dashboard and generate computerised court case challan, take print –out of the same and launch the case in the appropriate court.