

From

Labour Commissioner-cum-
Chief Inspector of Factories,
Haryana, Chandigarh.

To

1. All Deputy Directors, Industrial Safety and Health, in the state
2. All Deputy Labour Commissioners in the State
3. All Deputy Labour Commissioners (Welfare) in the State
4. All Deputy Directors, Industrial Health, in the state
5. All Assistant Directors, Industrial Safety and Health, in the state
6. All Assistant Directors, Industrial Health cum Certifying Surgeon
7. All Assistant Directors, Industrial Safety and Health, (Chemical).
8. All Assistant Labour Commissioners in the State
9. All Welfare Officer (Women) in the State
10. All Labour Welfare Officer in the State
11. All Labour Inspectors in the State
12. All Labour Inspectors (Welfare) in the State


No.: 3561-3641 Dated: 27/6/16

Subject: Implementation of the new "Transparent Inspection Scheme" direction thereof.

Kindly refer to the earlier directions issued vide letter no. 7052-7219 dated 03.12.2015, the Govt. of Haryana has amended the existing Transparent Inspection Scheme in order to simplify and rationalize the existing Inspection System. The amended Transparent Inspection Scheme has been uploaded at our departmental website.

The Scheme shall come into force from 24.06.2016. You are hereby directed to conduct the inspection, henceforth, strictly in accordance with the new amended Transparent Inspection Scheme.

You are further directed to comply with the above directions in letter and spirit and any violation or deviation of the above directions and the amended "Transparent Inspection Scheme" will be viewed seriously by the department and appropriate action will be taken.



Labour Commissioner-cum-
Chief Inspector of Factories,
Haryana, Chandigarh

Endst. No. 3642-48

Dated:- 20/6/16

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

1. Addl. Labour Commissioner (NCR) Gurgaon.
2. Addl. Labour Commissioner (Admn.)
3. Addl. Labour Commissioner, HQ
4. Joint Director- I, II (HQ) & (NCR) Gurgaon.
5. Joint Labour Commissioner, HQ


Labour Commissioner-cum-
Chief Inspector of Factories
Haryana Chandigarh

Labour Department, Haryana
Transparent Inspection Policy

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 50 workers | 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 their respective jurisdiction, he will register the same under Factories Act 1948 and send his registration report within 48 hours to head office.*

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 48 hours from the date of completion of inspection. The report shall be prepared and uploaded on the Departmental Website www.hrylabour.gov.in by the inspecting officer. The inspection report shall 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.

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 wages.

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 not inspections per se, but is maintenance of industrial peace and grievance redressal i.e. to provide corollary support for compliance of labour laws, therefore henceforth there shall be no quota of inspections.

The fundamental criteria for the choice of units for inspections would be the minimum level of wages or the excessive use of contract labour. So the inspections will be less in number and very selective.

Accordingly the list of units to be inspected will be prepared separately for the labour wing at head office largely on the basis of data on contract labour and field reports regarding enforcement of minimum wages. 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 for which legal action will be initiated after giving the employer ample opportunity for taking corrective action. However If there is some deficiency of maintenance of record which is not vital to secure such rights of the workers as mentioned above, then there shall be all the effort to get the compliance and there will be no prosecution.

The Inspection of units under the Shops and Commercial Establishments Act, 1958 which have been granted permission for employing female workers in the night shift will be conducted once in two years by a random list generated by the computer. The focus in such inspections will also be on the compliance of the preconditions imposed for the permission to operate the said night shift.

Transparent Inspection Scheme would not apply for inspections regarding Child Labour and Bonded Labour.

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. 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 joint inspection of factories by labour wing and the industrial safety wing if required will be selectively directed by head office only.

7. 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.

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.

8. Synchronized/Joint Inspection

The department shall ensure that the inspection under all labour laws including the Equal Remuneration Act 1976, Factory Act, 1948, Maternity Benefit Act, 1961, Minimum Wages Act, 1948, Punjab Shops & Establishments Act, The Punjab Welfare fund Act, Payment of Bonus Act, 1965, Payment of wages Act, 1936, Payment of Gratuity Act, 1972, Contract Labour (Regulation and Abolition Act, 1970, Industrial Establishments (National & Festival Holidays & Casual and Sick Leave) Act, 1965 and 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.
