

The rights of a DoL inspector conducting Health and Safety inspections



Being compliant with various legislation is imperative for any business owner to ensure continuous operations and avoid costly incidents. Ensuring compliance is done through inspections done internally but also externally by the Department of Labour (DoL).

Section 28 of the OHSA 85 of 1993: Designation of inspectors by Minister, the Minister of Labour designates DoL Inspectors with proper identification to perform partial or all of their duties as stipulated by the applicable legislation. Legislation for which these inspectors can be designated includes:

- Occupational Health and Safety Act;
- Labour Relations and Basic Conditions of Employment Act;
- Compensation of Occupational Injuries and Diseases Act;
- Unemployment Insurance Act; and
- Employment Equity Act

According to **Section 29 of the OHSA 85 of 1993** the inspector has the following powers:

- enter a premise at any reasonable time where such premises are occupied or used by an employer, an employee performs any work, or any plant or machinery is used;
- question any person who is on or in such premises, alone or in the presence of another on matters relating to this act;
- inspect any records relating to this act and question persons responsible for the records;
- inspect work conducted, machinery used, chemicals used for work;
- may seize any record, machinery, document, chemicals etc. in the event of a person being charged under this act or common law;
- an inspector may be assisted or accompanied by an interpreter, police officer or assistant.

A safe workspace must be provided to the inspector during the inspection.

Rights of an Employer in terms of inspection by the DoL Inspectors:

- May request proper identification to be produced by an inspector (certificate of designation). This certificate will indicate under which legislation the inspector may conduct his/her inspection and whether he/she is a verified inspector;
- May make copies of any evidence which may be used when a person is charged under the act or the common law;
- Request a receipt for any record, machinery, document, chemical etc. seized during inspection.

Advise to Employers during inspections conducted by the DoL Inspectors:

- Request the certificate of designation and confirm whether the inspector is a certified DoL Inspector,
- Be honest and provide valid information, an inspector is permitted to administer an oath,
- Make copies of any records or documents provided to the Inspector,
- Request a receipt for any material, document, machinery or other article removed by the Inspector.

In a previous blog, we discussed the **importance of OHSWA workplace inspection** where a short survey was included, these are typical questions asked by the DoL Inspector during a workplace inspection. Below is the same short survey that provides some indication of your company's compliance.

If you have answered NO to some of the questions in Section 1 or answered YES to any of the questions in Section 2, please speak to one of our Health and Safety Advisors.

SERR Synergy protects the interests of those employed and those who employ many people to make sure that the relationship between employee and employer is lawful and mutually beneficial. If you require assistance with compliance orders, please **contact us** for guidance.

About the author: Ilse-Marie van de Wall started her career as a Human Resources and Industrial Relations Practitioner in 2007. She holds a degree from the University of Pretoria and certificates in both NEBOSH and SAMTRAC. She is currently busy with a National Diploma in Safety Management at UNISA. As a professional Health and Safety Practitioner she is registered with SAIOSH and the SACPCMP. She started with SERR Synergy in 2016 and is employed as an Occupational Health and Safety Practitioner.

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