

Labour inspections and compliance for businesses



Is your business labour compliant?

More often than not, employers are willing to comply with legislation but find it an onerous task as they have to adhere to a vast number of laws and don't always know where to start. However, an employer's willingness should not be a determining factor as failure to comply constitutes a criminal offence.

The applicable legislation in the Labour arena includes the following: *Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997) (BCEA), the Compensation for Occupational Injury and Diseases Act, 1993 (Act No. 130 of 1993), the Employment Equity Act, 1998 (Act No. 55 of 1998) (EEA), the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) (OHSA) and the Unemployment Insurance Act, 1996 (Act No. 30 of 1996).*

Inspectors from the Department of Labour will conduct labour inspections to ensure compliance with the relevant legislation. Section 63 of the BCEA deals with their appointment. In terms of Section 64 of the BCEA, the *functions of a labour inspector* are as follows:

- Advising employees and employers of their rights and obligations in terms of an employment law;
- Conducting labour inspections in terms of this chapter;
- Investigating complaints made to a labour inspector;
- Endeavouring to ensuring compliance with an employment law by securing undertakings or issuing compliance orders;
- Performing any other prescribed function.

A labour inspector who has reasonable grounds to believe that an employer has not complied with a provision of the BCEA may issue a compliance order. Non-compliance may lead to fines being imposed and even imprisonment.

What needs to be in place in order to take that first step towards becoming compliant in 2017?

The Department of Labour has compiled an inspection pamphlet to assist in this matter. According to the pamphlet, the important questions that an employer should contemplate are the following:

- Are you registered with the Compensation Fund?
- Are you registered with the Unemployment Insurance Fund?
- Do you have a copy of the Occupational Health and Safety Act and the relevant Regulations on the premises and are the Act and the Regulations available to the workers if they want to read it?
- Do you display the Summary of the Basic Conditions of Employment Act?
- Do you display the Summary of the Employment Equity Act?
- Have you appointed Health and Safety Representatives?
- Have you established Health and Safety Committees in your workplace?
- Are you and your workers trained to recognise health and safety problems?

Questions such as:

Are moving parts such as drive belts and chains guarded?

Are chemicals used safely and stored in a safe place?

Are emergency exits clearly marked and easily accessible?

Are fire extinguishers accessible and serviced regularly?

Are flammable materials stored and used correctly, for instance not near fires?

- Do you have fully equipped first aid boxes on the premises?
- Are all electrical wires insulated and are proper plugs used in your workplace?
- Do you report injuries at work to the Department of Labour?
- Do you provide clean and hygienic toilets and washing facilities for males and females?
- Do you have an attendance register at your workplace?

A copy of this pamphlet is available at: <https://www.labour.gov.za/>.

The Employment Equity Act (EEA) is also an important Act to bear in mind as it not only affects your compliance but can also have a direct impact on compliance with Broad-Based Black Economic Empowerment legislation. Read more on *the purpose of the Employment Equity Act and how it impacts your BEE scorecard*.

SERR Synergy specialises in Labour compliance and if you are uncertain whether you are indeed labour compliant, please contact our Labour department to assist you with the transition towards becoming compliant.

About the author: Audrey Cloete obtained her LLB degree from the North-West University Potchefstroom in 2003. She completed her articles with the main focus on Criminal Law, however broadened her horizons after being admitted as attorney to take on other legal disciplines. She is also an admitted Conveyancer. Audrey joined SERR Synergy in 2015 where she currently works as a Legal Compliance Advisor.

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