The Regulatory Role of Ministry Of Labour and Employment in Managing Compliance

Presented By

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Presentation Outline

- Laws Guiding Employment Relationship
- Ensuring compliance through labour inspection
- Challenges of Labour Inspection
- Way forward
- Next Step

Laws Guiding Employment Relationship

- *Labour Act Cap L1 LFN 2004 . The Act provides for the functions, powers, and obligations of labour Inspectors.*
- *Factories Act*
- *Trade Union Act*
- *Trade Disputes Act*
- *ILO Convention No 87 on Labour Inspection*
- *ILO Convention 181 on Private Employment Agencies*
- *ILO Recommendation 188 on Private Employment Agencies*
- *ILO Private Employment Agencies Guide to Regulation and Enforcement*

Ensuring Compliance through Labour Inspection/Monitoring

- Labour Inspection/Monitoring of Private Employment Agencies. Whose responsibility?
- Headquarters or State offices?

Ensuring Compliance through Labour Inspection/Monitoring

- Two alternative ways of monitoring agencies' activities are a desk audit of provided information or field audits

Ensuring Compliance through Labour Inspection/Monitoring

- Labour inspection is carried out by field offices to ensure compliance with provisions of the labour laws.
- Offices are located in all the thirty-six states of the federation for inspection of workplaces in the respective states.
- States with high concentration of workplaces have district offices in addition to the state office to facilitate regular labour inspection.

Ensuring Compliance through Labour Inspection/Monitoring

- Undertakings are visited once a year – not statutory
- Where breaches of the law are discovered, instructions are given for rectification within a specified period.
- Thereafter, check visits are paid to ensure that the instructions were carried out.

Ensuring Compliance through Labour Inspection/Monitoring

Where there is a case of continued neglect and refusal to abide by instructions, the case is referred to the Headquarters for further necessary action.

Ensuring Compliance through Labour Inspection/Monitoring

Aside from routine inspection, Labour Inspectors do visit establishment based on:

- invitation;
- investigation of complaint based on non implementation of the provisions of the Labour Act and other regulations;
- where it is suspected that labour matters in an undertaking are not conducted satisfactorily; and
- to ensure that breaches observed in a previous visit have been rectified.

Ensuring Compliance through Labour Inspection/Monitoring

- Objectives of labour inspection are:
  - (a) to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters.

Ensuring Compliance through Labour Inspection/Monitoring

- (b) to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;
- (c) to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.

Ensuring Compliance through Labour Inspection/Monitoring

- Should employer/PEA be given advance notice of Inspection/monitoring?

Ensuring Compliance through Labour Inspection/Monitoring

- ***Article 12 of Convention 87 provide that***
- Labour inspectors provided with proper credentials shall be empowered:
  - (a) to enter freely and **without previous notice** at <u>any hour</u> of the day or night any workplace liable to inspection;
  - Inspection visits is generally without notice.
  - Where it is difficult to undertake inspection without prior notice to the establishment, prior notice is given without specifying the details of the visit

Ensuring Compliance through Labour Inspection/Monitoring Contd.

- Labour Inspectors may require the production of any books, registers or other documents the keeping of which is prescribed by national laws or regulations relating to conditions of work, in order to see that they are in conformity with the legal provisions, and to copy such documents or make extracts from them;

Ensuring Compliance through Labour Inspection/Monitoring Contd.

- They are empowered to enforce the posting of notices required by the legal provisions;
- And to take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified of any samples or substances taken or removed for such purpose.

Ensuring Compliance through Labour Inspection/Monitoring Contd.

What if Labour Inspectors are obstructed in the discharge of their duties?

Ensuring Compliance through Labour Inspection/Monitoring

- Section 78 of the Labour Act has the following provisions:
- In addition to any other powers conferred by this Act, an authorised labour officer may for the purpose of facilitating or ensuring the proper operation of this Act:
- (a) enter, inspect and examine by day or night any labour encampment, farm, factory or other land or workplace whatsoever (**and every part thereof**) if he has reasonable cause to believe that any worker is employed therein or thereon;
- (d) take with him a police officer if he has reasonable cause to apprehend any serious obstruction in the execution of his functions;

Ensuring Compliance through Labour Inspection/Monitoring

- ***I****n accordance with the provisions of Convention 181 Labour Inspectors endeavour* to ensure adequate protection for the workers employed by private employment agencies as in relation to:
- (a) freedom of association;
- (b) minimum wages;

Ensuring Compliance through Labour Inspection/Monitoring

- (c) working time and other working conditions;
- (d) statutory social security benefits – latest remittance to PFA
- (e) compensation in case of occupational accidents or diseases – Latest contribution to NSITF
- (f) compensation in case of insolvency and protection of workers claims – Bond expiration date
- (g) **maternity protection and benefits**, and parental protection and benefit

Ensuring Compliance through Labour Inspection/Monitoring

- Pre – Departure Orientation Seminars for intending Migrants recruited by PEAs
- Self Regulation

Challenges of Labour Inspection

- Obsolete labour laws
- Weak sanctions
  - E.g: Section 72 (2) of Labour Act

  "Any employer or industrial worker who contravenes section 69 (2) of this Act, any employer who fails to comply with a notice under section 69 (3) of this Act and any person who contravenes section 71 (I) of this Act shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N500 or to imprisonment for a term not exceeding six months"

Challenges of Labour Inspection Contd.

- Lack of operational vehicles
- Poor funding of inspection duties/Lack of political will to invest in labour inspection
- Lack of training for Labour Inspectors
- Attitude of some labour inspectors

Next Steps

- Production of IEC Materials of the following:
- Frequently Asked Questions on Recruiters' Licence
- Requirements for Issuance and Renewal of Recruiters' Licence
- Compendium of Private Employment Agencies

Next Steps Contd.

Production of IEC materials targeting social partners e.g:

- **Remuneration package for third party employees must not be significantly different when compared with client staff performing similar functions.**

Next Steps Contd.

Recruiters' Licence – promoting labour standards in third party employment

Next Steps Contd.

We treasure our workers and require diligence from them. We shun unfair labour practices and do let us know if you find any

Next Steps Contd.

“Everyone who works has the right to just and favourable remuneration, ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection”.

- Universal Declaration of Human Rights

Next Steps Contd.

In today's global employment environment, the focus has shifted from the "employment at will", "non- negotiable, take it or leave attitude", to a recognition of the need to see the employee as the most valuable resource and partner without which company objectives cannot be achieved.

Thank you