

Inspections by DEL OHS Inspectors Part 1

Over the next several months, I will be providing you with a bit of insight into the way inspectors from the Department of Employment and Labour: Occupational Health and Safety do inspections.

The purpose will be to provide you with insight and allow you to engage with the inspectors at an appropriate level, not argumentative, when inspections are conducted at your premises. Companies tend to put the most junior staff forward to meet inspectors as they may even ask their contractors to meet with the inspector.

After this series, I will then also cover a series on incident investigations and Inquiries. I would like to indicate right at the outset that I am not a legal practitioner and this would be merely from my experience as an inspector and then in my latter years my experience as the Chief Inspector for OHS nationally in South Africa. Any legal issue must be appropriately dealt with by the relevant professional people.

In Part 1 we will deal with the inspectors planning inspections. Planning inspections may take any form. Inspector may do inspections based on their internal planning which is referred to as routine inspections or they may do blitz inspections. Blitz inspections may be provincial, national or even regional. Blitz inspections may be led by the Minister of Employment and Labour or by the Inspector General of Inspections and Enforcement Services. Blitz inspections are generally done in sectors that could be problematic as a result of the high number of incidents or high number of complaints or as a result of statistical concerns viz. inspections conducted in a particular sector in a quarter or semester giving rise to a high number of contraventions and therefore a concern.

Before conducting inspections, the inspector will have to notify the employer before going out to the employer for routine inspections. When conducting blitz inspections however, the Occupational Health and Safety Act, Act 85 of 1993 (OHSA) does not require an inspector to notify an employer. A notification of an inspection may be done in as little as three days or longer period (some offices may send out for a longer period before the inspection). Why the notification, very simply, to ensure that all the required documents and people that must be available is on site on the day of the inspections.

The notification sent to the employer will include the following: employer details; name of inspector to conduct inspection, contact details of that inspector; date of the notification; office stamp that the inspector is operating from; Reference number; the legislation that will be inspected; date of the inspection and this notification will be signed by the relevant inspector who will conduct the inspection. Attached to this notification will be an annexure that will contain the information you the employer are required to put together for the inspection.

Is the inspection date negotiable, only if there is a very good reason to delay the inspection by the inspector. Continuous delays will result in the inspector invoking tools available to him/her to deal with employers who wish to avoid the inspection. Should it get to this point, the employer could be called upon to present him/herself with all the required documentation to the office of the relevant inspector. Next stage is recommending a prosecution to the Director of Public Prosecutions by the inspector in terms of Section 38.

Work with the inspector to improve health and safety to the benefit of the employer and employees as required by OHSA.

Next time (Part 2) we will look at the inspector arriving at your premises or the relevant site in preparation for the inspection.

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