



ABSTRACT

Ease of doing business - Reforms on the compliance of Labour Laws - Inspection Scheme of Directorate of Industrial Safety and Health - Orders – Issued.

LABOUR AND EMPLOYMENT (M2) DEPARTMENT

G.O. (MS) No: 134

Dated: 03.08.2017

ஹேவிளம்பி - ஆடி 18

திருவள்ளூர் ஆண்டு 2048

Read

From the Director of Industrial Safety and Health (i/c)
letter No. B1/15939/2017, dated 20.06.2017.

ORDER:

In the letter read above, the Director of Industrial Safety and Health has sent the Inspection Scheme for the Factories Division and the Building and other Construction Establishment Division to facilitate ease of doing business in the State and to bring more transparency in inspection.

2. The Director of Industrial Safety and Health has stated that in order to enable ease of doing business to the industries and to bring more transparency in inspection, pragmatic Inspection procedures are prepared for the Directorate of Industrial Safety and Health. He has sent the Inspection Scheme of Directorate of Industrial Safety and Health for the consideration of Government and requested to issue necessary orders in this regard.

3. The Government have been taking several steps to facilitate ease of doing business in the State. Hence, the Government after careful examination have decided to accept the above proposal of the Director of Industrial Safety and Health and accordingly order to implement the Inspection Scheme for the Factories Division and the Building and other Construction Establishment Division as below:-

INSPECTION SCHEME

In order to enable ease of doing business to the industries and to bring more transparency in inspection, pragmatic Inspection procedures are implemented in the Directorate of Industrial Safety and Health with Computerised Risk Assessment based Inspections and random allocation of Inspecting Officers. The following Labour laws are

enforced by the officials of Directorate of Industrial Safety and Health along with their respective Tamil Nadu state rules:-

- i. The Factories Act, 1948
- ii. The Building and other Construction workers (Regulation of Employment and Conditions of service) Act, 1996.
- iii. The Contract Labour (Regulation & Abolition) Act, 1970
- iv. The Child and Adolescent Labour (Prohibition & Regulation) Act, 1986.
- v. The Equal Remuneration Act, 1976.
- vi. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.
- vii. The Labour Laws (Exemption from furnishing Returns and maintaining Registers by certain Establishment) Act, 1988.
- viii. The Maternity Benefit Act, 1961.
- ix. The Minimum Wages Act, 1948.
- x. The Payment of Wages Act, 1936.
- xi. The Payment of Gratuity Act, 1972.
- xii. The Payment of Bonus Act, 1965
- xiii. Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989.
- xiv. The Tamil Nadu Industrial Establishments (Conferment of Permanent Status) Act, 1981
- xv. The Tamil Nadu Industrial Establishments (National & Festival Holidays) Act, 1958
- xvi. Tamil Nadu Labour welfare Fund Act, 1972.
- xvii. The Tamil Nadu Payment of Subsistence Allowance Act, 1981.
- xviii. The Tamil Nadu Control of Industrial Major Accident Hazards Rules, 1994.

The inspection scheme mandates the following principles for promoting ease of doing business:-

- (i) Inspection must be done for various acts at the same time in any particular Factory / Building and other Construction establishment.
- (ii) The same Inspector should not inspect the same factory/Building and other Construction establishment twice consecutively.
- (iii) For all cases of inspection, the inspection report should be submitted to the department and the concerned Factory / Building and other Construction establishment within 24 hours after the time of inspection.

A. Factories Divisions

The factories are categorized as high, medium and low risk factories on the basis of manufacturing process and number of workers employed therein.

1) High Risk category:

The following factories are high risk category of factories:

- (a) All Major Accident Hazard (MAH) Factories.
- (b) Factories, covered under Section 87 (Dangerous Operations) and Rule 95 of the Tamil Nadu Factories Rules 1950, employing more than 100 workers.
- (c) Factories, covered under Section 2(cb) of the Factories Act, 1948 (Listed in First Schedule as Industries Involving Hazardous Process), employing more than 100 workers.

These factories shall be randomly inspected once in a year.

2) Medium Risk Category:

The following factories are medium risk category of factories:

- (a) Factories, covered under Section 87 (Dangerous Operations) and Rule 95 of Tamil Nadu Factories Rules 1950, employing up to 100 workers.
- (b) Factories, covered under Section 2(cb) of the Factories Act, 1948 (Listed in First Schedule as Industries Involving Hazardous Process), employing up to 100 workers.
- (c) Factories employing more than 250 workers and not covered under Section 87 (Dangerous Operations) or Section 2(cb) (Hazardous Process) of Factories Act 1948.

These factories shall be randomly inspected once in two years.

3) Low Risk Category:

All the other factories not covered under medium and high risk categories shall be categorized as Low Risk under Computerized Risk Assessment Procedure.

Low risk category of factories shall be randomly inspected once in five years.

4) Self Certification-cum-Combined Annual Returns Scheme:

"Self-Certification-cum-Combined Annual Returns Scheme" has been proposed for the following factories:

- a) Medium risk category of factories employing more than 250 workers.
- b) Low risk category of factories

Low risk category of factories enrolled under this scheme shall be exempted from physical inspection. The medium risk factories enrolled in the above scheme shall be randomly inspected once in five years. However such factories may be inspected with the authorization of the Director of Industrial Safety and Health in case of complaint, accident or other exigencies.

5) Schedule of Inspections:

The Schedule of Inspections will be determined through online inspection module. The competency, jurisdiction and frequency of inspection for different cadre of Inspecting Officers are given below:-

| Designation of Officer | Category of factories | No of Inspection per month |
|------------------------|---|--|
| Assistant Director | Medium Risk Category of factories employing upto 50 workers and not covered under Self Certification Scheme | 1/24 of total number of such factories |
| | 1) Medium Risk Category of factories employing upto 50 workers but covered under Self Certification Scheme 2) Low Risk Category of factories employing upto 50 workers and not covered under Self Certification Scheme | 1/60 of total number of such factories |
| Deputy Director | Medium Risk Category of factories employing more than 50 and up to 250 workers and not covered under Self Certification Scheme | 1/24 of total number of such factories |
| | 1) Medium Risk Category of factories employing more than 50 and up to 250 workers but covered under Self Certification Scheme | 1/60 of total number of such factories |

| | | |
|---------------------|--|--|
| | 2) Low Risk Category of factories employing more than 50 and up to 250 workers and not covered under Self Certification Scheme | |
| Joint Director | High Risk Category of factories | 6 % (six percentage) of total number of such factories |
| | Medium Risk Category of factories employing more than 250 workers and not covered under Self Certification Scheme | 1/24 of total number of such factories |
| | Medium Risk Category of factories employing more than 250 workers but covered under Self Certification Scheme | 1/60 of total number of such factories |
| Additional Director | High Risk Category of factories | One factory in each division |

The factories will be selected randomly as per the frequency of inspections indicated above. A computer generated notice will be issued to the factories so as to provide 15 days clear time before inspection. The Inspecting Officer will be selected randomly through computerized online inspection module. The same Inspecting Officer will not inspect the same factory twice consecutively. In case of exigencies, such as leave, Court appearance etc., the notified factory shall be inspected by the next higher level officer by due authorization.

6) Inspection Report:

The compliance of all applicable labour laws will be verified by the inspecting officer during the inspection. The inspection report will be uploaded by the Inspecting Officer within 24 hours after the completion of his inspection. An alert will be sent to the Occupier / Manager, so that he may view/download the inspection report. In case of defects, the Occupier /Manager will be required to take corrective action and upload compliance report within seven (7) days. The compliance report will be scrutinized and effective follow up action will be taken. If the compliance report is not satisfactory, legal action will be initiated against the Occupier/ Manager of the factory by the officials of the Directorate as per the administrative instructions of the Director of Industrial Safety and Health.

7) Complaint:

On receipt of complaint against any category of factory, the inspection will be carried out by the next level officer higher than the regular inspecting officer or other higher level officer authorized by the Director of Industrial Safety and Health. In case of

repeated complaint within a year, a team of officers selected by Director of Industrial Safety and Health will inspect the factory.

8) Accident Inspection:

In case of accident, dangerous occurrence and other emergencies, Director of Industrial Safety and Health, will order additional inspection in the particular factory.

9) Squad Inspection:

Squad inspections will be conducted in match and fireworks factories, accident prone factories, etc, as per the orders of the Director of Industrial Safety and Health.

B. Building and other Construction Establishments Divisions

The building and other construction establishments are categorized as high, medium and low risk categories on the basis of the nature of construction and number of workers employed therein.

1). High Risk Category:

The following building and other construction establishments are high risk category of establishments:

- (a) All building and other construction establishments employing 500 and above workmen.
- (b) Irrespective of number of workmen, the establishments engaged in the construction of the following:

- Building having more than five floors,
- Railways,
- Tramways,
- Generation, transmission and distribution of power,
- Oil and gas installations,
- Dams,
- Tunnels and
- Bridges.

These building and other construction establishments shall be randomly inspected once in a year.

2) Medium Risk Category:

The following building and other construction establishments covered are medium risk category of establishments:

- (a) Building and other construction establishments employing more than 50 but less than 500 workmen.
- (b) Irrespective of number of workmen, the establishments engaged in the construction of the building having more than two floors but less than five floors.

These building and other construction establishments shall be randomly inspected once in two years.

3) Low Risk Category:

All the other building and other construction establishments not covered under medium and high risk categories shall be categorized as Low Risk under Computerized Risk Assessment Procedure.

These building and other construction establishments shall be randomly inspected once in three years.

4) Self-Certification-cum-Combined Annual Returns Scheme:

Self-Certification-cum-Combined Annual Returns Scheme has been proposed for the following building and other construction establishments:

- a) Medium risk category of establishments
- b) Low risk category of establishments

Low risk category of building and other construction establishment enrolled under the Self-Certification-cum-Combined Annual Returns Scheme shall be exempted from physical inspection. The medium risk category of building and other construction establishment enrolled in the above scheme shall be randomly inspected once in three years. However such building and other construction establishment may be inspected with the authorization of the Director of Industrial Safety and Health in case of complaint, accident or other exigencies.

5) Schedule of Inspections:

The Schedule of Inspections will be determined through online inspection module. The competency, jurisdiction and frequency of inspection for different cadre of Inspecting Officers are given below:-

| Designation of Officer | Category of building and other construction establishments | No of Inspection per month |
|------------------------|---|--|
| Assistant Director | Low Risk Category of establishments not covered under self certification scheme. | 1/36 of total number of such establishments. |
| Deputy Director | Medium Risk Category of establishments covered under self certification scheme. | 1/36 of total number of such establishments. |
| | Medium Risk Category of establishments not covered under self certification scheme. | 1/24 of total number of such establishments. |
| Joint Director | High Risk Category of establishments. | 1/12 of total number of such establishments. |

The establishments will be selected randomly as per the frequency of inspections indicated above. A computer generated notice will be issued to the establishments so as to provide 15 days clear time before inspection. The Inspecting Officer will be selected randomly through computerized online inspection module. The same Inspecting Officer will not inspect the same establishments twice consecutively. In case of exigencies, such as leave, Court appearance etc., the notified establishments shall be inspected by the next higher level officer by due authorization.

6) Inspection Report:

The compliance of all applicable labour laws will be verified by the inspecting officer during the inspection. The inspection Report will be uploaded by the Inspecting Officer within 24 hours after the completion of his inspection. An alert will be sent to the Employer, so that he may view/download the inspection report. In case of defects, the Employer will be required to take corrective action and upload compliance report within 7 days. The compliance report will be scrutinized and effective follow up action will be taken. If the compliance report is not satisfactory, legal action will be initiated against the Employer of the Establishment by the officials of the Directorate as per the administrative instructions of the Director of Industrial Safety and Health.

7) Complaint:

On receipt of complaint against any category of Establishment, the inspection will be carried out by the next level officer higher than the regular inspecting officer or other higher level officer authorized by the Director of Industrial Safety and Health. In case of repeated complaints within a year, a team of officers selected by the Director of Industrial Safety and Health will inspect the Establishment.

8) Accident Inspection:

In case of accident, dangerous occurrence and other emergencies, the Director of Industrial Safety and Health, will order additional inspection in the particular Establishment.

9) Squad Inspection:

Special squad inspections may be conducted in building and other construction establishments, as per the orders of the Director of Industrial Safety and Health in case of specific issues.

Self-Certification-cum-Combined Annual Returns Scheme

1) Objectives of the Scheme :-

The objective of this scheme is to reduce visits of the Government officials for inspection of Factories / Building and other construction establishments which opt for the scheme without compromising on safety, health, welfare and social security of workers and allow them to submit combined annual returns in lieu of multiple returns under various labour laws. At the same time ensure and enable Ease of Doing Business in the State.

2) Scope of the Scheme :

This scheme of "Self-Certification-cum-Combined Annual Returns Scheme" is open to the medium and low risk category of Factories/Building and other construction establishments in the state. This scheme will apply only to those Factories/Building and other construction establishments which opt to join the scheme by applying for the same as prescribed in **Form A / Form – B** annexure to this Government Order.

Participation in this scheme is voluntary on the part of occupier of the factory/ employer of the building and other construction establishment. There is no time limit for joining the scheme. The occupier of a factory/employer of the building and other construction establishment can opt to join the scheme at any point of time by applying online through the web portal maintained by the Directorate of Industrial Safety and Health, in the prescribed Form A / Form B, along with remittance of prescribed Security Deposit (validity for 5 years). If no reply is received by the occupier within 30 days of the

application made under Self-Certification-cum-Combined Annual Returns Scheme, the applicant shall be deemed to have been enrolled under the Scheme. These Factories/ Building and other construction establishments will be given prior notice of inspections. During inspection, if any deficiency is noticed then notice will be issued to the Occupier/Manager of the factory or the employer of the building and other construction establishment to take corrective action. Failure to correct shall entail action as per law.

The Security Deposit payable shall be as follows:

A) Factories:

| Category of Factories and No of workers | Security Deposit (in Rs.) |
|---|---------------------------|
| Low risk category of factories (employing up to 250 workers) | 10,000 |
| Medium risk category of factories employing more than 250 workers and up to 500 workers | 30,000 |
| Medium risk category of factories employing more than 500 workers and up to 1000 workers | 50,000 |
| Medium risk category of factories employing more than 1000 workers and up to 5000 workers | 80,000 |
| Medium risk category of factories employing more than 5000 workers | 1,10,000 |

B) Building and other Construction Establishment:

| Category of Building and other construction establishment and No. of Workers | Security Deposit (in Rs.) |
|--|---------------------------|
| Low risk category of building and other construction establishment | 20,000 |
| Medium risk category of building and other construction establishment | 30,000 |

The Security Deposit is refundable to the factory / building and other construction establishment after 5 years. The Security Deposit will be forfeited in the following circumstances, namely:-

- i) On failure to file Annual Return under the Scheme
- ii) In case of any legal action / prosecution launched by the officials of Directorate of Industrial Safety and Health for any labour law violations.
- iii) On failure to fully comply with the provisions pertaining to workers safety and health, which led to an accident or occupational disease in the factory.

In case, any Factory / Building and other construction establishment decides to exit from the self-certification-cum-Combined annual returns scheme before five years, then, there shall be proportionate deduction of Security Deposit, i.e., 20% if the exit is before one year, 40% if the exit is between 1 to 2 years, 60% if the exit is between 2 to 3 years, 80% if the exit is between 3 to 4 years and 100% if its exit is after 4 years and before 5 years.

3) Coverage under the Scheme :

The Scheme will cover the following labour laws along with the respective state rules as applicable to factories / building and other construction establishments:-

1. The Factories Act, 1948
2. The Building and other Construction workers (Regulation of Employment and Conditions of service) Act, 1996.
3. The Contract Labour (Regulation & Abolition) Act, 1970
4. The Child Labour and Adolescent (Prohibition & Regulation) Act, 1986.
5. The Equal Remuneration Act, 1976.
6. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.
7. The Labour Laws (Exemption from furnishing Returns and maintaining Registers by certain Establishment) Act, 1988.
8. The Maternity Benefit Act, 1961.
9. The Minimum Wages Act, 1948.
10. The Payment of Wages Act, 1936.
11. The Payment of Gratuity Act, 1972.
12. The Payment of Bonus Act, 1965.
13. Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989.
14. The Tamil Nadu Industrial Establishments (Conferment of Permanent Status) Act, 1981
15. The Tamil Nadu Industrial Establishments (National & Festival Holidays) Act, 1958
16. Tamil Nadu Labour welfare Fund Act, 1972.
17. The Tamil Nadu Payment of Subsistence Allowance Act, 1981.
18. The Tamil Nadu Control of Industrial Major Accident Hazards Rules, 1994.

4) Inspection of factories / building and other construction establishments covered under Self Certification-cum-Combined Annual Returns Scheme:

A) Factories

Self-Certification-cum-Combined Annual Returns Scheme is applicable to the following factories:

- a) Medium risk category of factories employing more than 250 workers.
- b) Low risk category of factories

Low risk category of factories enrolled under the Self-Certification-cum-Combined Annual Returns Scheme shall be exempted from physical inspection. The medium risk factories enrolled in the above scheme shall be randomly inspected once in

five years. However such factories may be inspected with the authorization of the Director of Industrial Safety and Health in case of complaint, accident or other exigencies.

B) Building and other Construction Establishment

Self-Certification-cum-Combined Annual Returns Scheme is applicable to the following building and other construction establishments:

- a) Medium risk category of establishments
- b) Low risk category of establishments

Low risk category of building and other construction establishment enrolled under the self-certification-cum-Combined annual returns scheme shall be exempted from physical inspection. The medium risk category of building and other construction establishment enrolled in the above scheme shall be randomly inspected once in three years. However such building and other construction establishment may be inspected with the authorization of the Director of Industrial Safety and Health in case of complaint, accident or other exigencies.

5) Filing of Combined Annual Returns:

The Factory / Building and other construction establishment enrolled under this scheme shall furnish the Combined Annual Return in Form No 22 as per Rule 100 of Tamil Nadu Factories Rules, 1950 / Form XXV under Schedule XIII, as per Rule 242 of Tamil Nadu Building and other Construction workers (Regulation of Employment and Conditions of service) Rules, 2006.

(BY ORDER OF THE GOVERNOR)

P. AMUDHA
SECRETARY TO GOVERNMENT

To
The Director of Industrial Safety and Health (i/c), Chennai-600 032.

Copy to:

The Special Personal Assistant to the Hon'ble Minister (Labour) Chennai-600 009.

The Private Secretary to the Secretary to Government, Labour and
Employment Department, Chennai-600 009.

The Labour and Employment (I/OP.2/H) Department, Chennai-600 009.

Stock File / Spare Copy / Clean Copy to file (C.No.12652/M2/2017)

//FORWARDED BY ORDER //

6. அமூதா
3/8/17

SECTION OFFICER

3-8-17

ANNEXURE

FORM – A

Application for Self-Certification under various Labour Laws by the Factories
Registered under Factories Act 1948

| | | | | | |
|----|--|-----|-------|-------|--|
| 1 | Name and Address of the Factory | | | : | |
| 2 | Registration No | | | : | |
| 3 | Name and Address of the Occupier | | | : | |
| 4 | Name and Address of the Manager | | | : | |
| 5 | Name of the other Acts under which Registration / license obtained (if so please specify the No. and Date of such approvals) | | | : | |
| 6 | No of workers employed | | | : | |
| | | Men | Women | Total | |
| | a. Regular | | | | |
| | b. Contract | | | | |
| | c. Others | | | | |
| | | | | | |
| 7 | Whether minimum wages paid (specify the name of the scheduled employment) | | | : | |
| 8 | Whether appointment letters / ID cards Issued to the persons employed | | | : | |
| 9 | Whether required register under all the relevant Acts maintained by the Principal Employer and Contractor | | | : | |
| 10 | Whether returns as per Schedule under the Act/Rules submitted before due date | | | : | |
| 11 | Whether Maternity benefit extended to the women employees | | | : | |
| 12 | Whether arrangements are made to pay wages to the employees by 7 th / 10 th of the succeeding month | | | : | |

| | | | |
|----|---|---|--|
| 13 | No of employees paid bonus | : | |
| 14 | Whether wages paid to the employees through Bank Account | : | |
| 15 | Whether the retired / resigned employees are paid gratuity, leave encashment etc as per the provisions of the Act/Rules | : | |
| 16 | Whether the conditions of service, holidays, leaves, weekly offs etc allowed to the employees under the relevant Acts/Rules | : | |

CERTIFICATE

- a) Certified that we have gone through the Scheme and have fully understood the contents of this Scheme and undertake to abide by the same.
- b) Certified that we have complied/are complying with all the provisions under all the Act and Rules applicable to the factory.
- c) Certified that we will furnish the Combined Annual Return in Form No 22 as per Rule 100 of Tamil Nadu Factories Rules, 1950.
- d) We are the authorized persons to issue the above certificate and the above certificate is issued with full knowledge of the statutes. We jointly and severally responsible for any information found incorrect subsequently and liable for prosecution under the provisions of the Acts/Rules.

SIGNATURE OF THE MANAGER
NAME AND DESIGNATION
DATE & OFFICIAL SEAL

SIGNATURE OF THE OCCUPIER
NAME AND DESIGNATION
DATE & OFFICIAL SEAL

P. AMUDHA
SECRETARY TO GOVERNMENT

//TRUE COPY//

சு. அமரதாசு
3/8/17
SECTION OFFICER
8/3/17

FORM – B

Application for Self-Certification under various Labour Laws by the Building and other Construction establishments Registered under Building and other Construction workers (Regulation of Employment and Conditions of service) Act, 1996

| | | | | | | |
|----|--|---|--|-----|-------|-------|
| 1 | Name and Address of the Building and other Construction establishments | : | | | | |
| 2 | Registration No | : | | | | |
| 3 | Name and Address of the Employer | : | | | | |
| 4 | Name and Address of the Contractors if any | : | | | | |
| 5 | Name of the other Acts under which Registration / license obtained (if so please specify the No. and Date of such approvals) | : | | | | |
| 6 | No of workers employed | : | | | | |
| | | | | Men | Women | Total |
| | a. Regular | | | | | |
| | b. Contract | | | | | |
| | c. Others | | | | | |
| 7 | Whether minimum wages paid (specify the name of the scheduled employment) | : | | | | |
| 8 | Whether appointment letters / ID cards issued to the persons employed | : | | | | |
| 9 | Whether required register under all the relevant Acts maintained by the Principal Employer and Contractor | : | | | | |
| 10 | Whether returns as per Schedule under the act/ Rules submitted before due date | : | | | | |
| 11 | Whether Maternity benefit extended to the women employees | : | | | | |
| 12 | Whether arrangements are made to pay wages to the employees by 7 th / 10 th of the succeeding month | : | | | | |
| 13 | No of employees paid bonus | : | | | | |

| | | | |
|----|---|---|--|
| 14 | Whether wages paid to the employees through Bank Account | : | |
| 15 | Whether the retired/resigned employees are paid gratuity, leave encashment etc as per the provisions of the Act/Rules | : | |
| 16 | Whether the conditions of service, holidays, leaves, weekly offs etc allowed to the employees under the relevant Acts/Rules | : | |

CERTIFICATE

- a) Certified that I have gone through the Scheme and have fully understood the contents of this Scheme and undertake to abide by the same.
- b) Certified that I have complied/are complying with all the provisions under all the Act and Rules applicable to the Building and other Construction establishments.
- c) Certified that I shall furnish the Combined Annual Return in Form XXV under Schedule XIII, as per Rule 242 of Tamil Nadu Building and other Construction workers (Regulation of Employment and Conditions of service) Rules, 2006.
- d) I am the authorized person to issue the above certificate and the above certificate is issued with full knowledge of the statutes. I am responsible for any information found incorrect subsequently and liable for prosecution under the provisions of the Acts/Rules.

SIGNATURE OF THE EMPLOYER
NAME AND DESIGNATION
DATE & OFFICIAL SEAL

P. AMUDHA
SECRETARY TO GOVERNMENT

//TRUE COPY//

61 - 21/8/17
SECTION OFFICER
3.8.17