



सत्यमेव जयते

Government of West Bengal  
**Labour Department**

**COMPREHENSIVE INSPECTION POLICY  
2017**

## **I. INTRODUCTION**

In 2016, the Labour Department, under the recommendations of Department of Industrial Policy and Promotion, Government of India (DIPP), introduced a series of reforms in the methodology of performing inspections under various Labour Laws.

The Labour Department launched its own web portal on 26<sup>th</sup> September 2016, which is a gateway to wide range of information on the functions and mode of operation of this Department; this includes making available the standardised operating procedures and standard inspection procedures in the public domain. In order to inform the concerned establishment on what all is liable to be inspected, this Department also made available standardised Checklists pertaining to specific inspections.

Furthermore, it was observed that delivery of services took unreasonably long time and therefore well-defined timelines for delivery of a host of services were introduced vide this Department notification no 1688-GE dated 11<sup>th</sup> June, 2015. This is also in conformity with the West Bengal Right to Public Services, 2013.

The Department has taken credible steps towards delivery of services by introducing online service delivery mechanism vide its notification number Labr/72/IT&EoDB/IR/3C-04/2015 dated 16<sup>th</sup> May, 2017, wherein the facilities for online application, payment, tracking and download final approval certificate were provided, without the need for physical touch point. Earlier, the applicant would need to submit multiple forms for multiple services. The Labour Department introduced a Common Application Form (CAF) for applying for all services of Ease of Doing Business under this Department. It has also been now enabled that a single return be filed by the Business Entity in lieu of multiple returns at various intervals each year under the Common Returns Form (CRF). All of this, interalia has been made available to the citizens through a Single Window that has been created on the Labour Department's portal "wblabour.gov.in". This has considerably reduced the burden on a business entity doing / intending to operate in Bengal.



In another path breaking effort, this Department took extensive deliberation on the possible parameters to assess the potential risk in any establishment. Accordingly, a "Policy on Risk Profiling, Inspection Norms & Self Certification for Shops/Establishments/Units/Owners under various Labour Laws, 2016" was introduced for the Labour Commissionerate vide this Department Order Number 1716-IR/3C-04/15 (Pt-II) on 28<sup>th</sup> June, 2016 (*Annexure-I*); and this Department has implemented this policy through a computerized system for identifying establishments that need to be inspected based on risk assessment. This Computerized Risk Assessment system was notified vide this Department Order Number 1229-GE/G/4P-15/15 dated 23/05/2016. In continuation with the above stated policy, this Department now has approved risk profiling parameters for the Directorate of Factories and the Labour Commissionerate which have been mentioned below:

<b>RISK CATEGORY</b>	<b>LABOUR COMMISSIONERATE</b>	<b>FACTORIES DIRECTORATE</b>
<b>HIGH RISK</b>	<p>a. Establishments with number of employees/ workmen (including directly and indirectly employed) of 100 or more <b>OR</b></p> <p>b. Establishments against whom two or more written complaints are received and violations have been detected in respect to violation of labour laws administered by Labour Commissionerate, <b>OR</b></p> <p>c. Establishments against whom court case or cases were launched for violation of labour laws in the past and were convicted within last three years.</p>	<p>a. All the factories identified and notified as Major Accident Hazard factories <b>OR</b></p> <p>b. All factories involving processes identified as Hazardous processes under Section 2(cb) and listed under Schedule(1) of The Factories Act 1948 and having Licence for employing more than 20 (Twenty) workers; <b>OR</b></p> <p>c. All other factories having Licence for employing more than 100 (One Hundred) workers; <b>OR</b></p> <p>d. All factories in which incidents of Dangerous Occurrences (Fire/Collapse of structure etc.),</p>

		<p>Fatal/Serious Accidents may have taken place during the past three years; <b>OR</b></p> <p>e. Factories against which prosecutions have been initiated by the Directorate or complaints have been received in the past three years.</p>
	<p>In either of the Directorates, the number of registered establishments / business entities, in the HIGH RISK category, must not exceed 20% of the total registered establishments/ business entities.</p> <p>The parameters for risk assessment would be revised as and when required to maintain the above stated proportion of 20% of the total registered establishments/ business entities being in the HIGH RISK category.</p>	
<b>MEDIUM RISK</b>	<p>a. Establishments with number of employees / workmen (including directly and indirectly employed) 10 to 99, <b>OR</b></p> <p>b. Establishments against whom written complaint has been received and violations have been detected in respect to labour laws administered by Labour Commissionerate, (Apart from those who are already covered under category A) <b>OR</b></p> <p>c. Establishments against whom court case or cases were launched for violation of Labour Laws ( Apart from those</p>	<p>All factories not covered under the afore-mentioned High Risk Factories and having Licence for employing 21(Twenty One) to 100 (One Hundred) workers.</p>



	<p>who are already covered under category A) <b>OR</b></p> <p>d. If the number of Contract labourers is more than the number of regular workman in the establishment, <b>OR</b></p> <p>e. Establishments with more than 50 workers but with no operating trade union <b>OR</b></p> <p>f. Non-Renewal of license or registration issued under any labour laws or failure or delay in submission of returns under applicable laws <b>OR</b></p> <p>g. Establishments who failed or appeared to be failed to take registration under any labour law administered by Labour Commissionerate <b>OR</b></p> <p>h. Such other establishments as may be determined by the Labour Commissioner depending upon nature of business and others</p>	
<b>LOW RISK</b>	<p>a. Establishments with number of employees/ workmen (including directly and indirectly employed) zero to nine; <b>OR</b></p> <p>b. Such other establishments as may be determined by the Labour Commissioner depending upon nature of business and others, <b>OR</b></p>	All other factories not covered earlier.

	<p>c. Establishments with nature of activity / employment where minimum rates of wages have been fixed by the State Government under the Minimum Wages Act,1948;</p> <p><b>OR</b></p> <p>d. Establishments defined as New Start Ups by the Department of Industrial Policy &amp; Promotion, Govt of India (DIPP) for a period of initial Three Years of establishment (Ref. orders from Ministry of Labour &amp; Employment, Govt of India bearing no. Z-13025/39/2015-LR Cell dated 12/01/2016 and No. Z-20025/1/2016-LRCell dated 19/02/2016).</p>	
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The frequency of inspection for business establishments in Bengal would depend on their risk category, as tabulated below:

CATEGORY	LABOUR COMMISSIONERATE		DIRECTORATE OF FACTORIES	
	Frequency	Competent Authority / OPTION	Frequency	Competent Authority
HIGH RISK	Once in every four months	Labour Commissionerate	Twice a year	Directorate of Factories
MEDIUM RISK	Once in every eight months.	Third Party Certification	Once a year	Third Party Certification
LOW RISK	Once in every three years	Self-Certification	Once in two years	Self-Certification



Further, under the Self-Certification Scheme of the Labour Commissionerate, an additional option has been kept that *"any Employer, where the Government of West Bengal is the appropriate Government under the respective Acts, can opt for this Scheme"* and shall be liable to payment of fees as prescribed in the Scheme.

The Labour Department also introduced customised modules for computerised risk profiling. Customised modules were also introduced vide this Department's Order Number 1229-GE dated 23<sup>rd</sup> May 2016, for randomisation and allocation of inspectors so as to ensure that no single inspector would visit the same establishment twice consecutively over a specific period of time. The inspection reports were also submitted online through this module and made available to the establishment inspected.

The Labour Department, vide notification number Labr/72/IT&EoDB dated 16<sup>th</sup> May 2017, has enabled Online Delivery of all key G2B services and has eliminated the need for physical touch point for any business entity. This has come into effect from 30<sup>th</sup> May, 2017.

All the registered establishments have been classified into three broad categories, namely – HIGH, MEDIUM and LOW risk establishments. The LOW Risk industries / establishments with a history of satisfactory compliance have been given the option to self-certify their compliance to Labour Laws.

Further, in continuation with the provisions of the Policy on Risk Profiling, Inspection Norms & Self Certification for Shops/Establishments/Units/Owners under various Labour Laws, 2016 (*Annexure – I, Para – IV a) iii) d)*, the **START-UPs**, as defined by the Department of Industrial Policy and Promotion, are being exempted from inspection under various Labour Laws for a period of initial three years.

## II. THIRD PARTY CERTIFICATION FOR MEDIUM RISK ESTABLISHMENTS

As per the Business Reforms Action Plan – 2017, Third Party Certifications (instead of Departmental inspections) under all the labour laws are to be allowed for MEDIUM RISK industries.

After careful consideration, this Department now introduces the provision for THIRD PARTY CERTIFICATION under the following Labour Laws for such establishments that are classified under the MEDIUM RISK category as per the computerized risk profile of that business entity. The qualifications of Third Party Certifiers, the modalities and the operating procedures are detailed further in this document.

## III. INSPECTION OF HIGH RISK ESTABLISHMENTS

Departmental inspections as per existing Acts / Rules would be conducted in such establishments / business entities that are classified as belonging to the HIGH RISK category.

The Directorates are to ensure that the proportion of registered inspectable establishments / factories / business entities in the **HIGH RISK category must be within 20% of the total registered establishments** / factories / business entities under any of the Labour Laws mentioned in this document.



#### **IV. APPLICABILITY COMPREHENSIVE INSPECTION POLICY, 2017**

This policy shall be valid for following Acts and Rules as applicable to the concerned employer/ entrepreneur/ occupier:

- i) The Beedi & Cigar Workers (Condition of Employment) Act, 1966 & Rules framed thereunder.
- ii) The Building & Other Construction Workers (RE&CSW), Act, 1996 and Rules framed thereunder other than provisions relating to safety and health.
- iii) The Child Labour (P&R), Act, 1986 and Rules framed thereunder; & The Child Labour (P&R) Amendment Act, 2016.
- iv) Contract Labour (Regulation & Abolition) Act, 1970 and Rules framed thereunder.
- v) The Equal Remuneration Act, 1976 and Rules framed thereunder.
- vi) Factories Act, 1948 and rules framed thereunder.
- vii) The Inter-State Migrant Workmen (RE & CS) Act, 1979 and Rules framed thereunder.
- viii) Maternity Benefit Act, 1961 and Rules framed thereunder.
- ix) Minimum Wages Act, 1948 and Rules framed thereunder.
- x) Motor Transport Workers Act, 1961 and Rules framed thereunder.
- xi) Payment of Bonus Act. 1965 and Rules framed thereunder.
- xii) Payment of Gratuity Act, 1972 and Rules framed thereunder.
- xiii) Payment of Wages Act, 1936 and Rules framed thereunder.
- xiv) Sales Promotion Employees (CS) Act, 1976 and Rules framed thereunder.
- xv) West Bengal Labour Welfare Fund Act, 1974 and Rules framed thereunder.
- xvi) The West Bengal Payment of Subsistence Allowance Act, 1969 and Rules framed thereunder.
- xvii) West Bengal Shops & Establishments Act, 1963 and Rules framed thereunder.
- xviii) West Bengal Workmens' House Rent Allowance Act, 1974 and Rules framed thereunder.
- xix) Working Journalist and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 and Rules framed thereunder.

## **V. OPERATING PROCEDURES**

### **A. EMPANELMENT OF AGENCIES/INDIVIDUALS FOR THIRD PARTY CERTIFICATION**

#### **1. ELIGIBILITY CRITERIA**

A. For a Third Party Certifier to get enlisted under the Labour Commissionerate, he / she :

- (i) Should be a retired government employee of West Bengal Labour Service or
- (ii) Should be a retired government employee of West Bengal Subordinate Labour Service or
- (iii) A retired Government Employee of Central or Other State Government employee in equivalent field and rank.
- (iv) The person should have retired from the Government job and must be below the age of 65 years at the time of his application as a Third Party Certifier.
- (v) The person should be a permanent resident of the State of West Bengal.
- (vi) Person should have worked in the service as mentioned in clause 1 for at least 5 years during his employment.
- (vii) The person should have a satisfactory past service record.
- (viii) must have sound mental and physical condition;
- (ix) must not be currently employed in any company / firm / establishment etc;
- (x) must not have any litigation / case pending against him / her in the Court of Law.

B. For a Third Party Certifier to enlist under the Directorate of Factories:

- (i) the individual must possess minimum educational qualification as is required to be an Inspector of Factories;
- (ii) the individual must have atleast 15 years of experience in evaluating compliance under the Factories Act, 1948, Rules framed thereunder and allied health and safety provisions under various other Acts;



- (iii) the individual must have experience in filing and / or evaluating Returns under the Factories Act, 1948 and allied Acts;
- (iv) must be below 65 years of age on the date of application;
- (v) must have sound mental and physical condition;
- (vi) must not be currently employed in any company / firm / establishment etc;
- (vii) must not have any litigation / case pending against him / her in the Court of Law.

## **2. SELECTION METHODOLOGY:**

The respective Directorates will form a Selection Committee, with atleast one member from the Labour Department and one expert from educational institutions / universities etc, to select the Individual as a Third Party Certifier under this Department. This Committee will evaluate the applicant(s) and empanel those successful as Third Party Certifier(s). The respective Directorates would also be at liberty to engage an organization or an agency provided they conform to the abovesaid criteria.

## **3. VALIDITY OF EMPANELMENT AND SUBSEQUENT RENEWAL**

Once notified, such empanelment would remain **valid for a period of two years** from the date of issue of such Notification, subject to termination clause in this document.

The Third Party Certifier may apply to the concerned Directorate for **renewal of empanelment** atleast two months prior to the expiry of the empanelment term. Such applications will be accepted up to fifteen days prior to the expiry of the term of empanelment. The concerned Directorate may choose to renew the empanelment of the Third Party Certifier on being satisfied in all respect and after approval of the Labour Department. Applications received after expiry of term of empanelment would be treated as fresh applications and will be processed accordingly.

#### **4. DECLARATION BY THE THIRD PARTY CERTIFIER:**

- a) The applicant would have to submit a declaration / bond stating that the powers vested upon him will not be misrepresented or misused for personal gain.
- b) Additionally, such Third Party Certifier would be liable to be prosecuted as per laws as applicable.

#### **B. DUTIES AND RESPONSIBILITIES OF THE THIRD PARTY INSPECTOR**

- a. The Third Party Certifier may on behalf of the concerned Directorate in the MEDIUM RISK business entities who have sought their services.
- b. The Third Party Certifier is in no way authorised to initiate any prosecution whatsoever;
- c. The Third Party Certifier would report compliance or any detected violation to the appropriate authority through online module;
- d. The MEDIUM RISK establishment may avail of the services from the Third Party Certifier. Alternatively, any establishment in the MEDIUM RISK category may opt to submit Self-Certification for compliance under all or any of the Labour Laws, if they so deem fit. However, the Self Certification by the MEDIUM RISK establishments would have to be allowed by the concerned Directorate based on their satisfactory track record of compliance for atleast three consecutive previous years.
- e. In no case would such a Third Party Certifier visit any establishment / shop or business entity on his own. The Third Party Certifier would not have any authority to conduct surprise inspection and the certification would be limited to ication of only.
- f. Adverse reports of the Third Party Certifier can be inspected by the concerned Directorates and would fall under Surprise Inspection Category, as mentioned later in this document. [Refer: Para VIII (ii) b.]



## C. AREA OF OPERATION

This policy shall be applicable to the entire territory of the State of West Bengal.

## D. FEES AND CHARGES

The charges per inspection for Third Party Certification shall be payable by the concerned establishments / business entities as per the table below:

S/N	Third Party Certifier for Labour Commissionerate (including Shops & Establishments)	Third Party Certifier for Directorate of Factories
1.	<p>i) Applicable rates would be proportionate to 1/30<sup>th</sup> part of the salary drawn by the Government inspector at the time of his / her retirement.</p> <p>ii) The rates shall be applicable per visit by the Third Party Certifier per establishment.</p> <p>iii) In a single visit, the Third Party Certifier must complete checking or verification of the satisfactory compliance of provisions of respective Acts and Rules mentioned in Para – IV in this document (except the Factories Act, 1948).</p>	<p>i) Applicable rates would be proportionate to 1/30<sup>th</sup> part of the salary drawn by the Government inspector at the time of his / her retirement.</p> <p>ii) The rates shall be applicable per visit by the Third Party Certifier per establishment.</p> <p>iii) In a single visit, the Third Party Certifier must complete checking or verification of the satisfactory compliance under the Factories Act, 1948, Rules framed thereunder and allied health and safety provisions under various other Acts.</p>

**NOTE** (regarding payment to Third Party Certifier by the Business Entity):

- a. The charges payable will not be paid in Cash.
- b. List of approved Third Party Certifier(s) will be notified by the concerned Directorates with concurrence of the Labour Department. This list is liable to be updated by the concerned Directorates from time to time.
- c. The Directorate reserves the authority to terminate empanelment of any Third Party Certifier as and when deemed fit; with concurrence of the Labour Department.
- d. The Directorates would fix the fees and charges payable (per establishment per visit) by the establishment to the Third Party Certifier, and notify the same from time to time, with the approval of the Labour Department. However, the Directorates will not be liable to address any discrepancy or disputes arising out of issues related to payment.

## **VI. UNIQUE IDENTIFICATION OF ESTABLISHMENTS**

Each of the establishments registered under any of the Labour Laws being administered by this Department, shall be allotted a unique identification number – **Comprehensive Labour Identification Number** (CLIN). This number shall be allotted to each registered unit and shall be applicable across the concerned Directorates. This CLIN shall be available through the Single Window Application of the Labour Department.

## **VII. COMMON INSPECTION SYSTEM**

In 2015, the Labour Department had introduced a provision for synchronised inspections under 16 Labour Laws vide Department's Notification No: 435/LW/3A-01/14 dated 15<sup>th</sup> June, 2015. In 2016, the same was extended vide this Department's Order No. 626-IR/3C-04/2015 dated 28<sup>th</sup> June, 2016, allowing inspections under the Factories Act to be carried jointly with the inspections under various other Labour Laws. Inspections under this Department are now executed and monitored by separate



computerised systems. The Labour Department proposes to introduce a Common Inspection System (CIS) responsible for undertaking compliance inspections under this Department.

The proposed system would ensure that the selection of establishments for inspection is done using computerized risk assessment and allocation of inspectors is done using this CIS. The scheduling of inspections would be done using this proposed system and all the inspection reports shall be submitted using this Central Inspection System.

The Labour Department would notify the commencement of this new Central Inspection System.

#### **VIII. MISCELLANEOUS**

- i). The Labour Department reserves the right to modify, extend or delete any or whole of the provisions in this policy.
- ii). Notwithstanding anything stated above, besides the routine inspection / certification, the respective Directorates reserve the right to conduct special visit / surprise inspection at any establishment at any point in time as per following instances:
  - a. on being directed by the Head of the Directorate during special drives, enquiry into a complaint received, collection of statistics etc; OR
  - b. on receipt of adverse reports from the Third Party Certifier; OR
  - c. visits for enquiring into accidents, dangerous occurrences etc; OR
  - d. on being directed by the Court of Law; OR
  - e. visits for ascertainment / verification of amenability under The Factories Act, 1948, as amended, of units running without valid licence, duly authorized by the Head of the Directorate.

In no other instance would any inspector visit any premises without prior approval from the Head of the Directorate.

IX. **SUMMARY**

This policy is aimed to assist and ease the investments and new start-ups in the State. The norms as specified herein above, if conflict with any statute or law (in part or whole) will give way in favour of that law or statute.

By order of the Governor

*Vikram* 24/8/2017  
**GOPAL KRISHNA, IAS**  
Additional Chief Secretary to the  
Government of West Bengal