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Ministry of Labour and Human Resources
Department of Labour



2022

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**Handbook for Labour Officers and Labour
Inspectors**

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First Edition: 2010

Second Edition 2022



27th May, 2022

FOREWORD

This Handbook has been compiled to provide freshly recruited Labour Officers with an introduction and basic understanding to the workings of the Department of Labour. Through this handbook the reader will be apprised of the day to day activities of the Divisions under the Department. They will also be familiarized with the legal framework that supports the Department's mandates and functions.

Much attention has been given in this handbook to the processes and systems used by the Divisions and the principles that must govern the daily work of the Labour Officer. The Labour Officer is entrusted with the welfare and safety of the nation's workforce and thus must be vigilant in both enforcement and facilitation. Furthermore the information and data collected and used by the Labour Officer is both sensitive and personal; it is therefore, of paramount concern that a high level of confidentiality and privacy be instilled in the men and women entrusted with the same.

This handbook has been designed in reference with the Constitution of Bhutan, the Labour and Employment Act of Bhutan, 2007 and its various Regulations. As a Labour Officer, the Act and its Regulations must always be on the forefront during labour inspections, receiving complaints and providing clarifications or advocacy to the general public. Described within this handbook are the ways and means to prepare and equip the new Labour Officer in the performance of their duties.

It is with hope and expectation that this handbook will help the Department in molding bright new minds into productive and successful Labour Officers.



Director

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SECTION 1 INTRODUCTION

Chapter 1 Labour Administration

Labour administration is concerned with “Public administration activities in the field of national labour policy”. This means it is concerned with the role of government in labour and employment matters including:

- policy development;
- transforming policy intentions into laws and regulations; and
- securing compliance with policies and laws through information, advice, and enforcement.

Labour administration typically covers four main technical areas, namely:

- labour protection including working conditions, occupational health and safety, and social protection;
- labour relations including dispute prevention, dispute resolution, and the interactions between workers and employers and their respective organizations;
- employment and training including employment promotion, employment creation, human resource forecasting, and skills training directed to specific labour market requirements; and
- information and research including the generation of information from administrative records, information from labour force and establishment surveys, and applied research to underpin policy development activities.

As well as these substantive areas, labour administration is also concerned with decision making processes, particularly the interactions between government, employers and workers at national, industry, and enterprise levels with a view to ensuring the active involvement of stakeholders in decisions relating to labour and employment matters. Such tripartite consultations and interactions, usually leading to advice to government rather than final decisions or binding agreements, is an indication of a mature labour administration system and takes time to develop.

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In Bhutan, the Ministry of Labour and Human Resources is the focal point of the labour administration system and is active in all areas outlined above, with the exception of social security and tripartite consultations. The development and implementation of social security policies for the private sector has now been included in the responsibilities of the Ministry's Department of Labour, and tripartite consultations will be possible once each representative of workers and employers have been formed.

Chapter 2

Ministry of Labour and Human Resources

The Ministry of Labour and Human Resources was established in 2003 and has the following vision, mission and objectives.

Vision

A Nation where all its citizens have the opportunity for gainful and quality employment characterized by harmonious and productive relationships in the workplace and the broader community.

Mission

To facilitate human resource development for economic development and to ensure gainful employment for all Bhutanese workforce.

Mandates

The Ministry is mandated to ensure:

- employment promotion through a provision of an effective employment service system and facilitating job creation;
- improved working conditions and living standards for all people engaged in the world of work;
- social welfare of the unemployed and the retired employees of the agencies outside the civil service sector; and
- availability of adequate human resources both in terms of number and quality to facilitate sustainable socio-economic development of the country.

Objectives

The fulfillment of the Ministry's mission involves the pursuit of the following objectives:

- To facilitate the availability of appropriate human resources to the economy and promote gainful employment for the Bhutanese workforce, in particular for those who are literate and skilled;
- To ensure the efficient use of human resources, particularly the literate and skilled, by all sectors of the economy;
- To facilitate the creation of employment opportunities by developing appropriate policies on employment and labour;
- To promote harmonious labour relations through drafting of appropriate labour laws, rules and regulations;
- To facilitate private sector development through the planning and implementation of its HRD programs and recommending policy interventions;
- To minimize the mismatch between the supply and demand of human resources through skills development policy interventions; and
- To create an enabling environment for safe, secure and productive working conditions.

The Ministry has five departments, namely:

1. Department of Technical Education;
2. Department of Occupational Standards;
3. Department of National Human Resource Development;
4. Department of Employment and Entrepreneurship; and
5. Department of Labour.

Chapter 3

Department of Labour

Vision

A Nation where there is a harmonious and productive relationship between workers and employers

Mission

To facilitate human resource development for economic development and to ensure gainful employment for all Bhutanese workforce.

The Department is responsible for:

1. the establishment and operation of a labour inspection system directed to improving working conditions in all workplaces and making workplaces safer, healthier and more productive;
2. developing close cooperation between the Department, employers and workers to encourage them to assume prime responsibility for labour protection in workplaces, to raise awareness of the relation between good protection and good business, and to highlight the importance of labour-management cooperation and productivity enhancement;
3. implementing labour relations policies and laws and where necessary assisting workers in their negotiations with employers;
4. encourage employers and workers and their respective organizations to take greater responsibility for the operation of the labour relations system through information sharing, consultation, negotiation and bargaining, all directed to reinforcing the common interest between employers and workers;

5. establish a dispute resolution procedure drawing to the maximum extent possible on customary and traditional approaches to dispute resolution, and emphasizing alternatives to the formal court system;
6. operate a work permit renewal system for foreign workers making maximum use of computer technology.

The Department will strive to achieve the following objectives:

1. Labour laws and regulations concerning labour inspection and labour relations will be drafted, enacted, widely publicized and enforced.
2. Regulations concerning occupational health and safety will be in place and enforced.
3. An enforcement system for the Labour and Employment Act will be in place and applied.
4. Bhutan shall attain ILO convention(s) as an observer and shall look into the possibilities of becoming ILO member.
5. Ensure arrangements are in place that encourages workers to join the private sector.
6. Strengthen and improve the system for the management of foreign workers.
7. Ensure that arrangements are in place to ensure the number of foreign workers does not exceed the government ceiling.
8. Inspect all enterprises liable to inspection on average at least once per year.
9. Ensure that all workers, both national and foreign, benefit from labour protection activities through a safer and healthier working environment, and improved working conditions.
10. Prepare and implement a national wage policy for the private and corporate sectors.

11. A national occupational safety and health policy will be in place and supporting laws and regulations will be enacted, implemented and enforced.
12. An integrated labour inspection system will be established and become operational.
13. A system for assisting employees in their bargaining with employers on a range of labour relations issues, including wages and working conditions, will be established until employees are able to bargain without assistance.
14. Encourage and support the establishment and operation of a range of labour dispute prevention mechanisms at enterprise level.
15. Labour dispute resolution and settlement mechanisms, taking due account of traditional and customary approaches, will be in place and operational.
16. Develop and implementation of Social Protection policies.

The Department has four Divisions:

- (a) Labour Protection Division;
- (b) Labour Relation Division;
- (c) Social Protection Division; and
- (d) Foreign Workers Division.

As a Labour Officer or Labour Inspector, there are many things you need to know and many things you must be able to do. Some of the things you need to know are:

- The content and meaning of the articles of the Constitution of the kingdom of Bhutan that relate specifically to labour and employment matters.
- Bhutan's general legal framework and the content of meaning of the nation's labour laws and regulations.

- The general economic framework within which the country's workplaces operate including at national, industry and enterprise levels.
- The nature and operation of the Labour Administration System and the Foreign Workers Management System.
- The role and functions of the Ministry of Labour and Human Resources.

Some of the things you need to be able to do include:

- How to handle complaints from workers under the labour law.
- How to interview employees and employers.
- How to conduct meetings.
- How to handle disputes over existing rights.
- How to negotiate with employers.
- How to manage your time.
- How to communicate with people with different levels of education and knowledge concerning labour matters.
- How to effectively use the power at your disposal as a Labour Officer.

Accordingly, this Hand Book is intended to provide you with the knowledge and skills required to enable you to perform your tasks and duties to an acceptable level of performance. More specifically, it aims to provide you with:

- a general knowledge of Bhutan's legal, economic and social framework in which Labour Officers are required to operate,
- a general knowledge of the work of Bhutan's Labour and Employment Act of Bhutan, 2007 and its regulations.

- the capacity to enable you to interact and communicate effectively with employers and employees on all aspects of of the above.

Labour Protection Division

- Inspecting enterprises (by inspectors empowered by law), to educate, inform and advise employers on the content and meaning of laws, encourage self-compliance and, if necessary, gain compliance through enforcement measures;
- Monitoring the implementation of laws with a view to identifying weaknesses and shortcomings thus enabling improvements to be made;
- Extending labor inspection services, particularly concerning occupational safety and health, to workers not covered by formal contractual arrangements including self-employed persons, family businesses and farmers;
- Reporting on the outcome of each inspection visit, preparing regular reports on the operation of the labor inspection and labor relations systems, and preparing an annual report to the Ministry;
- Coordinating and information sharing with all other departments and agencies, both government and private, concerned with labor inspection and labor protection;
- Shaping new policies by collecting information, undertaking basic research, and assisting in drafting policy papers on wages, occupational safety and health, and other matters;
- Supervising the work and operations of labor inspectors in three regional offices; and
- Implement and enforce OHS rules and regulation and laws governing OHS at work places.

Labour Relations Division

- Educating and informing workers, employers, relevant government officials, and wider society of the nature and purpose of a labor relations system in a mixed economy;
- Advising and training workers and employers at enterprise level on labor relations processes;
- Training workers and employers at enterprise level on interaction skills including communication, consultation and negotiation;
- Resolving disputes through information and advice, conciliation and mediation;
- Supporting, technically and administratively, the operation of the arbitration dispute settlement mechanism;
- Promote workspace harmony and co-operation through enforcement and compliance of the laws;
- Investigate the nature and causes of labour disputes and assist the disputing parties to resolve disputes amicably;
- Submit charge sheet to a court of law; and
- Represent the Ministry in a court of law.

Foreign Workers Division

- Review application for foreign workers and accord approval to recruit and employ foreign workers in line with the government policies, norms and rules and regulations;
- Monitor proper utilization of foreign workers by employers;
- Ensure that foreign workers are not exploited and receive equal treatment under the labour law;

- Ensure that both employers and foreign workers abide by the provisions of the Labour and Employment Act of Bhutan, 2007 and its Regulations;
- Monitor the performance of Foreign Workers Recruitment Agents and strengthen them through supervision, inspection and training and re-organization from time to time;
- Liaise with Department of Immigration on issues related to management of foreign workers; and
- Ensure that the Foreign Workers Management System functions smoothly 24 hours a day and 7 days a week.

Social Protection Division

- Study and research on social protection issues in the country and propose recommendations to the government for decision;
- Review the existing provident fund and gratuity schemes and see how, if at all, they can be integrated into a wider pension scheme;
- Draw up a comprehensive administrative and operational framework for social protection including arrangements for decentralized services;
- Plan and implement public awareness campaigns on social protection targeted to employees in the corporate and the private sectors; and
- Implement social protection schemes such as minimum wages, gratuity, provident fund, pensions, unemployment insurance, severance benefits, etc.

Regional Offices

The followings are the Regional Offices of the Ministry to reach its services closer to the public:

- Phuentsholing Regional Office covers Chukha and Samtse Dzongkhags;
- Gelephu Regional Office covers Sarpang, Tsirang, Dagana, Trongsa, Zhemgang and Bumthang Dzongkhags;
- Samdrup Jongkhar Regional Office covers Samdrup Jongkhar and Pema Gatsel Dzongkhags; and
- Trashigang Regional Office covers Trashigang, Trashi Yangtse, Monggar and Lhuentse Dzongkhags.

Paro, Haa, Punakha, Wangdue Phodrang and Gasa Dzongkhags are covered by Headquarters.

Chapter 4

Legal Framework

Constitution

The following articles of *The Constitution of the Kingdom of Bhutan* are relevant to the work of Department of Labour.

Article 7 (9)

A Bhutanese citizen shall have the right to own property.

Article 7 (10)

A Bhutanese citizen shall have the right to practice any lawful trade, profession or vocation.

Article 7 (11)

A Bhutanese citizen shall have the right to equal pay for work of equal value.

Article 7 (12)

A Bhutanese citizen shall have the right to freedom of peaceful assembly and freedom of association, other than membership of associations that are harmful to the peace and unity of the country, and shall have the right not to be compelled to belong to any association.

Article 7 (15)

All persons are equal before the law and are entitled to equal and effective protection of the law and shall not be discriminated against on the grounds of race, sex, language, religion, politics, or other status.

Article 9 (9)

The State shall endeavour to achieve economic self-reliance and promote an open and progressive economy.

Article 9 (10)

The State shall encourage and foster private sector development through fair market competition and prevent commercial monopolies.

Article 9 (11)

The State shall endeavour to promote those circumstances that would enable the citizens to ensure an adequate livelihood.

Article 9 (12)

The State shall endeavour to ensure the right to work, vocational guidance and training and just and favourable conditions of work.

Article 9 (13)

The State shall endeavour to ensure the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 9 (14)

The State shall endeavour to ensure the right to fair and reasonable remuneration for one's work.

Article 9 (17)

The State shall endeavour to take appropriate measures to eliminate all forms of discrimination and exploitation against women including trafficking, prostitution, abuse, violence, harassment and intimidation at work in both public and private spheres.

Article 9 (18)

The State shall endeavour to take appropriate measures to ensure that children are protected against all forms of discrimination and exploitation including trafficking, prostitution, abuse, violence, degrading treatment and economic exploitation.

Article 9 (22)

The State shall endeavour to provide security in the event of sickness and disability or lack of adequate means of livelihood beyond one's means of control.

Article 21 (1)

The Judiciary shall safeguard, uphold, and administer Justice fairly and independently without fear, favour, or undue delay in accordance with the Rule of Law to inspire trust and confidence and to enhance access to Justice.

Article 21 (2)

The judicial authority of Bhutan shall be vested in the Royal courts of Justice comprising the Supreme Court, the High Court, the Dzongkhag Court, the Dungkhag Court and such other Courts and Tribunals as may be established from time to time.....

Article 21 (18)

Every person has the right to approach the Courts for enforcement of the rights conferred on him by this Constitution and the laws.

All of the above articles are concerned in some way with labour administration and thus are of concern to the Ministry of Labour and Human Resources, particularly its Department of Labour. Some are of particular concern to labour inspection, particularly Articles 9 (12)(13) (14) (17) (18). One article, namely Article 11 (12), is of particular concern to Bhutan's labour relations system.

This gives Bhutanese citizens the right to form associations and means that citizens other than workers are able to associate. This makes it possible, for example, for supervisors and managers to form associations.

It is also important to note that Article 7(12) applies to Bhutanese citizens thereby excluding foreigners from forming associations.

As a labour officer you should have a copy of the nation's constitution on hand and understand that it represents the highest source of law for the entire country.

Penalty Grading

- Petty Misdemeanor – 1 month to 1 year imprisonment
- Misdemeanor – 1 to 3 years imprisonment
- Fourth degree – 3 to 5 years imprisonment
- Third degree – 5 to 9 years imprisonment
- Second degree – 9 to 15 years imprisonment
- First degree – 15 years to life imprisonment

Labour Legislation

The main legislation is the ***Labour and Employment Act of Bhutan, 2007***. Under this Act, there are three regulations. These regulations fall into two categories namely: working conditions and working environment. The regulations are as follows:

- (1) Regulation on Working Conditions, 2022;
- (2) Regulation on Occupational Health, Safety and Welfare, 2022; and

(3) Regulation on Occupational Health and Safety for the Construction Sector, 2022.

Whenever you go on an inspection visit, you should make sure you have a copy of the Act and its regulations with you.

SECTION 2

LABOUR PROTECTION DIVISION

Chapter 1

Purpose and Nature of Labour Inspection

As a Labour Inspector, it is crucial that you understand the underlying purpose of your work.

Why do we have labour inspectors?

What can labour inspectors do to help achieve the nation's development objectives?

Labour inspection is concerned with the protection of workers with regard to:

- the terms under which they are employed including wages, hours of work, allowances, leave and other benefits established by law or agreement; and
- the conditions under which work takes place including the safety and health of workers and the action required to eliminate, minimize and control hazards concerning machinery and equipment, work processes, substances, and the general working environment.

Labour inspection is concerned with:

- **protecting** workers,
- **preventing** exploitation, accidents and health problems at work, and
- **improving** the working environment.

The purpose is not to prosecute or punish – these are a means to secure compliance with laws and regulations, but are not the real substance or purpose of labour inspection.

Explaining your work to others

In explaining the purpose of labour inspection to employers, workers and others, you should make reference to the following.

- **The emphasis in inspection work is on prevention.** The employer and workers must assume prime responsibility for prevention in the workplace. Inspectors can advise and assist, but prime responsibility rests with employers and workers.
- **Labour protection, with the emphasis on preventing problems from arising, is part of good business practice.** Labour protection and labour inspection do not impede efficiency, productivity and profitability.
- **Labour inspection involves inspectors making visits to enterprises on a regular basis.** Most of your visits will be routine visits in which you go to an enterprise not in response to a particular complaint but to look at things in general to help secure compliance with the law. In some cases, your visits will be by appointment, in other situations they will be unannounced.
- **A labour inspector checks for compliance** concerning all matters included in the Act and its regulations.
- **The Labour Inspector is a general inspector with multiple tasks.** He/she is not expected to be an expert in all these areas, particularly occupational safety and health but, under the law, can call on the support of specialists to assist with problems beyond his/her immediate competence.

Functions of labour inspectors

In order to 'prevent, protect, and improve' there are specific things the inspector must do. These functions are established by law, under Section 26 of the Act.

- **Advise, inform, and educate** employers and employees on their legal rights and obligations under the Act and its regulations. You should note that your functions relate to both employers and employees and includes giving information, advice and guidance on the **content** of the law. This means that you are required to explain to employers and employees the meaning of the law, and advise them how to comply with the law's requirements.
- Section 26 of the Act indicates that the Labour Inspector is also required to provide information, advice and guidance **to self-employed persons and other workers** who are not covered by a contract of employment. This applies particularly to matters concerned with safety and health in the workplace.
- **Secure compliance** with the provisions of the law by investigating and taking action to deal with alleged contraventions of the Act and its regulations.
- **Report** to the supervisor and Chief Labour Administrator on the results of inspection activities and report on problems and defects in workplaces, including those that are not covered by laws and regulations.
- **Enforce** the posting of any notices in the workplace required by the Act or its regulations. Such notices include such matters as safety and health rules, minimum wages, and overtime rates and require the employer to display such notices in the workplace on a notice board or other means of display. The inspector is required to make sure

that these notices are, in fact, posted and displayed as required by law.

Types of inspection visits

In carrying out the above functions the inspector is required to undertake **three** types of inspection visits, as follows.

- (a) **Routine Inspection** is aimed to anticipate and prevent problems by informing workers and employer on the content of the law, advising them on how to comply and if necessary, securing compliance with the Act and its Regulations through enforcement. Routine visits normally cover the full range of matters to be inspected.
- (b) **Follow-up Inspection** focuses on problems and contraventions of the Act and its regulation as identified in previous routine visits, to determine the extent to which the enterprise has responded to the outcome of the earlier routine visit.
- (c) **Special Inspection** is unplanned and is based on complaints and specific issues constituting a priority matter as determined by the Department of Labour.

Announced and unannounced inspection

Labour inspectors are empowered to undertake both announced and unannounced visits.

An **announced inspection** requires the inspector to notify the enterprise in advance of an intended visit and make a firm appointment. For an announced visit the inspector shall give a minimum of 2 working days' notice to the enterprise.

An **unannounced inspection** requires no advance notification to the enterprise and permits the inspector to enter the enterprise, without warning, at any reasonable time.

Whether an inspection visit shall be announced or unannounced shall be decided by the Department of Labour on a case-by-case basis.

Chapter 2

Powers of a Labour Inspector

As a Labour Inspector, you have powers conferred on you under Sections 27 to 29 of the Act. The exercise of these powers requires the prior authority of the Chief Labour Administrator.

In practice, you will not require the authority of the Chief Labour Administrator for each inspection visit. The Chief Labour Administrator will normally delegate this authority to Head of Department of Labour or to the Chief Labour Officer.

With this prior authority, you have power to:

- enter at reasonable times workplaces that by law are liable to inspection including factories, plants, establishments, construction sites, environment or any place where work is performed by any employee of an employer.
- conduct inspections and investigations during regular hours and other reasonable times.
- inspect and investigate working conditions, structures, machines, apparatus, devices, equipment and materials within workplaces.
- question, in private if necessary, any employer, owner, agent or employee if the inspector believes that conditions likely to endanger employees exist.
- require the attendance and evidence of witnesses and the production of evidence when undertaking inspection or investigation
- obtain a court order, if necessary, requesting a person to produce evidence or give testimony relating to a matter under investigation

- require under warrant from a court that books, registers or other documents relating to conditions of work be produced to see that they conform with the law
- make copies of any books, registers or documents produced under warrant from the court
- take or remove for purposes of analysis any samples of materials or substances used or handled
- enter workplaces without an appointment, if circumstances so require.
- issue improvement notices in accordance with section 40 of the Act.
- issue prohibition notices in accordance with sections 43 and 44 of the Act.
- enforce the posting of notices required by law.

Sources of power

Power is the ability to influence other people so that they do what you want them to do, or to refrain from doing something you do not want them to do.

Position power

Your **position power** and appointment as a Labour Inspector is derived from the law. Your powers under the Act are considerable but, at the same time, you must use your powers ‘reasonably’ – meaning within reasonable limits and in a reasonable manner (Section 27(b) of the Act).

Technical power

You can also influence other people by drawing on your **technical power**.

Technical power is your ability to influence others because of your knowledge, abilities and experience. Your knowledge of

labour laws, your knowledge of basic safety measures, your ability to identify hazards, and your ability to solve problems, are examples of technical power.

Person power

Your work as a labour inspector also requires you to use your person power.

Person power is concerned with your ability to influence others by the way in which you use your position and technical power. It refers to your ability to communicate, persuade and influence related to your particular personality characteristics including sincerity, honesty, and integrity.

As a Labour Inspector, you should find a suitable balance in the use of your powers. If you rely solely on your position power and thus emphasize telling, compulsion and punishment you will have difficulty in getting full cooperation from employers and workers. If, however, you can demonstrate high-level technical power, and have good inter-personal skills, it will be much easier to get people to do what you want them to do.

The way in which you use your power will vary according to the situation you face.

For example, with an employer who wants to cooperate but is unsure of what he or she is required to do, you should rely on your technical and person power. With an employer who is uncooperative, clearly in breach of the law and not willing to take remedial action, you would normally rely on your position power.

Chapter 3

Responsibilities and Obligations

Although a Labour Inspector has considerable legal powers, you also have various obligations and responsibilities towards your clients and the State.

Obligations

- You should notify employers of your presence at the enterprise when you undertake an inspection.
- You should show your labour inspection card and, if necessary, letter of authorization. (Section 30 of the Act)
- You should not reveal any information on secret processes and other information gained during your visit that might harm the competitive situation of the enterprise under inspection. (Section 31 of the Act)
- You should not reveal the name of any complainant or source of any complaint made against the employer. (Section 32 of the Act)
- You should have no direct or indirect interest in the enterprises you are inspecting. (Section 35 of the Act)
- You should be independent and impartial and not accept any gifts or benefits that could influence your judgment.
- You must prepare periodic reports for submission to your superiors.

Confidentiality

As a Labour Inspector, you will sometimes see work processes and receive information that the enterprise wants to keep confidential. An enterprise has the right to protect its competitive

situation by ensuring that any secret information relating to its products and processes is not made available to other people.

Secrets may include the actual raw materials used in the production process, the way in which those raw materials are combined and used in producing products, the packaging used within the enterprise, storage arrangements for raw materials and final products to prevent deterioration, or special or custom-made machinery used in the production process. As an inspector, you are not permitted to disclose this type of information to others.

Section 34 of the Act indicates that:

“The Labour Inspector shall treat as confidential and not reveal any manufacturing or commercial secrets which may come to his or her knowledge in the course of executing his or her duties”

Section 34 of the Act, however, provides for two situations in which you are required to reveal secret information, namely:

1. if you are required by a court of law to reveal such information;
2. if you are required to reveal such information as part of your work as a labour inspector as, for example, when you are preparing an accident report, or issuing an improvement or prohibition notice.

You must treat your confidentiality obligation very seriously. Failure to do so is an offence under the Act (Section 33) and you are liable to punishment by a period of imprisonment for a period of 1-3 years. The court, at its discretion, may substitute a fine for the period of imprisonment.

In addition, you may also face administrative and disciplinary action from the Ministry for failure to meet confidentiality requirements.

Be careful. Do not talk about what you see and hear in an enterprise to your friends and relatives. Even if you are sure the information is not confidential or secret, keep it to yourself and your superiors.

Conflict of interest

As a Labour Inspector, you are not permitted to inspect any enterprise or workplace where you have some direct interest. If, for example, a business is owned by your family, or you are a part owner yourself, you must declare your interest and disqualify yourself from undertaking the inspection.

Inspectors are required to conduct their work without bias and avoid any possibility of prejudice or partiality. You must remain impartial at all times.

Section 35 of the Act indicates that:

‘A Labour Inspector who has the personal, pecuniary or direct interest that may prejudicially affect the consideration of any matter before him shall not inspect or supervise on that matter so as to avoid the possibility of prejudice.’

Even if you have no direct financial interest in an enterprise, such as part ownership or owning shares, you may still have a personal interest if the enterprise is owned or managed by a family member or close friend.

If it can be shown that you have a personal or financial interest in the enterprise you are inspecting, you commit an offence under the

Act. Even if you are sure that having such an interest did not influence your judgment in any way and that your impartiality has not been compromised, you may still be liable to punishment. As indicated in the Act you may be liable to a term of imprisonment from 1 month to less than 1 year. The court, at its discretion, may substitute a fine for the term of imprisonment.

Be aware of potential conflicts of interest. If you know there is a conflict of interest, do not undertake the inspection of that enterprise. Contact the CLO and arrangements will be made for the inspection to be undertaken by another inspector. If you are not sure whether there is a conflict or not, don't take a chance.

Complainants

In some cases, labour inspection work is undertaken in response to a specific complaint by an employee including such things as under-payment of wages, late payment of wages, non-payment for overtime work, being required to work in a hazardous environment, or not receiving leave entitlements or benefits established by law or agreement.

As a Labour Inspector, you are obliged to protect the identity of the complainant. Once you are investigating a complaint often the first reaction of the employer is 'who told you this!' You should indicate to the employer that by law you are not permitted to reveal the identity of the complainant. The reason is obvious – to protect the complainant against retaliation from the employer through such means as the threat of dismissal, transfer to a less rewarding job, actual dismissal, or withholding payments or benefits to which the employee is entitled.

Section 32 of the Act indicates that:

“A labour inspector shall treat as confidential the source of any complaint relating to a breach or suspected breach of this Act.”

If you fail to protect the identity of a complainant you commit an offence under the Act. You shall be liable to be punished by a term of imprisonment of from 1 month to less than 12 months. The court, at its discretion, may substitute a fine for the term of imprisonment. In addition, the Ministry may take administrative action against you.

Labour inspection and labour relations

There is some confusion between labour inspection and labour relations. Labour inspection and labour relations are related, but different. In some countries both functions are undertaken by the same officer. In other countries they are separated.

Labour inspection is concerned with the activities required to gain compliance with labour laws and regulations. Its objective is to prevent breaches of the law, prevent accidents and diseases, improve working conditions and the working environment, and protect workers.

Labour relations is concerned with the interactions between workers and employers, as influenced by government, at work or arising out of work. Its objective is to encourage harmony and cooperation in workplaces, prevent and reduce labour-management conflict, and resolve conflicts that do arise as fairly and quickly as possible.

The Government has a major role to play in both labour inspection and labour relations. In labour inspection, the government

intervenes in the contractual relationship between workers by establishing minimum standards that must be included in the contract, and then checking to see that such standards are applied in practice. The contract of employment between the worker and his/her employer can include terms and conditions that are **better** than those required by law, but cannot include terms of a standard below that set by law.

In labour relations, the government's role is to help prevent disputes from arising between workers and employers and, if disputes do arise, to assist in settling such disputes fairly and as quickly as possible.

Both labour inspectors and labour relations officers are government officials but with different functions and different job descriptions. There is some overlap, however, in that effective labour inspection can reduce labour disputes, and this is also one of the functions of labour relations officers.

Chapter 4

Organizational Arrangements

The work of labour inspectors must be organized in such a way as to achieve to a maximum the objectives of prevention, protection, and improvement. We must also organize our resources to ensure they are used with maximum efficiency and effectiveness. The organizational arrangements must take account of the following.

- Routine inspection visits must be undertaken on a regular basis to all workplaces, as defined by law.
- Each enterprise liable to inspection shall be inspected at least once per year. Those deemed to be high risk or regularly failing to comply with the law shall be inspected more frequently.
- Inspection work should concentrate on 'at risk' enterprises concerning working conditions and the working environment.
- Labour inspection will operate on the basis of an integrated system in which inspectors, either working alone or in pairs, shall be responsible for all six areas to which inspection applies.
- Inspectors must work in accordance with a monthly work plan based on targets and standards of performance.

Workplaces liable for inspection

As an inspector you must be able to identify all workplaces liable to inspection, as defined by law. This requires that you know the definition of 'workplace' and then know where all such workplaces are actually located.

Labour Administration System

Guided by the labour administration policy and the Act & its regulations, the Department of Labour has developed Labour Administration System (LAS) to implement the Act and its regulations. The LAS is absolutely essential for generation of the reliable data for the policy intervention and decision making at national level as well as Sector/Firm level.

This LAS is also essential for effective inspection work. It will allow a file to be opened for each enterprise liable to inspection. This will be an electronic file and will contain a complete and up-to-date history of all inspection and related matters relating to each enterprise in the country that is legally liable to inspection. The data in LAS will be up-dated and validated as a result of each inspection visit.

Labour Inspectors will be expected to access the database prior to undertaking each inspection visit. This will ensure that each visit is undertaken with a detailed knowledge of the history of the enterprise, and a clear understanding of the level and nature of risks known to exist.

Inspection visits: How many?

As per the Act, every workplace where work is performed by any employee of the employer should be visited by inspectors at least once in a year. However, it will depend on the total number of firms and the human resources of the department.

How will we do it?

The Regulation on Working Conditions, 2022 sets a standard of 20 routine visits per month by a Labour Inspector team. Six Labour Inspectors, working in teams of two, and based on a working year of 10 months, would thus be able to complete 200

visits per team or 600 in total. Clearly, this is less than the 3000 set as a reasonable standard.

What is the solution?

One approach is to increase the number of visits per team per month. This will be difficult to achieve, particularly given the need to travel long distances and the time spent on preparing reports and receiving complaints.

Another approach is to lower the frequency of visits from once per year to once very two years. This is not desirable as it reduces the overall effectiveness of inspection work. Non-compliance with the law and unsafe and unhealthy working environments will remain undetected.

Another approach is to increase the number of inspectors from 10 to 20, thereby allowing 10 teams with 20 visits per month to undertake 200 visits per year, a total of 2000 visits. This is the preferred approach in which the number of inspectors is determined by the amount of inspection work to be done.

'At risk' workplaces

The Labour Inspection visits should give priority to high and medium risk enterprises, with the possibility that such enterprises will be visited several times during a year, and continuing until such enterprises are able to reduce the degree of risk to which employees are exposed.

The risk level of enterprises has been developed in accordance with the following criteria.

- The nature of the products and services produced. This would mean that some industries are automatically regarded as high risk such as construction, mining, forestry and timber processing, and chemicals. Any enterprise in

such sectors would be assumed to be 'high risk' until inspection proves otherwise.

- The nature of the raw materials and processes used in production.
- Ownership of the enterprise (corporate sector, private sector, foreign, national or joint-venture)
- Size (usually determined by the number of employees)
- Composition of the labor force, including whether women and young persons are employed, whether non-national workers are involved, whether the work force is skilled or unskilled.
- Reported or known accidents, incidents or deaths.
- The frequency and nature of complaints from workers.
- The existence in the enterprise of persons responsible for labour matters such as safety officer, workers' representative or spokesperson
- Experience and common knowledge. After some years as a labour inspector you will accumulate knowledge of those work places that tend to have problems. You can use this experience to help you decide which enterprises should be given priority for inspection visits.

These criteria have been used to give an enterprise a broad rating of high, medium or low risk. It would also be possible to give each enterprise a numerical rating based on a number of points for each criterion. The higher the score, the higher the potential risk, and the greater the need for more frequent inspection visits. For example, an enterprise given a score of 92 out of a possible 100 would be classed as 'high risk' and thus subject to frequent visits, perhaps every month or so until the risk is reduced.

The purpose of giving each enterprise a risk classification is to enable the Department to focus its limited inspection resources where they are most needed. The monthly work plans of inspection teams, prepared under the supervision of the Chief Labour Officer, will reflect these priorities and ensure that inspectors do not spend time inspecting enterprises with no or few problems.

Integrated inspection

Bhutan has decided to operate an integrated labour inspection system. This means that all aspects of labour inspection will be undertaken by one centralized inspectorate, with each individual inspector expected to undertake six main functions, as follows.

- Checking on working conditions including wages, allowances, and hours of work
- Checking on social security contributions and benefits
- Checking on work safety
- Checking on things likely to affect the health of workers
- Checking on work permits for foreign workers
- Checking on the operations of employment agents

One Labour Inspector will not necessarily have all the technical knowledge and skills required to do everything required in the above six areas. It is estimated that a general inspector can perform about 80% of all inspection work, with the remaining 20% requiring the knowledge and skills of technical specialists. Thus, the general inspector will need to call on the services of engineers, chemists, and doctors and other technical persons to assist in addressing safety and health problems that are beyond the immediate technical competence of the general inspector.

Section 34 of the Act allows for persons with specialized knowledge:

‘To attend a workplace or other premises to assist and advise the inspector in executing his or her powers under this Act.’

Such persons will not have the power of Labour Inspectors but have the same obligations as a Labour Inspector with regard to confidentiality, conflicts of interest, and the protection of the identity of complaints. Such persons will advise the Labour Inspector on those matters where the inspector lacks the necessary technical knowledge.

The Department will prepare a register of technical experts, indicating their field of specialized knowledge and their contact details. It is expected that some of these technical experts will be drawn from the Royal Civil Service, some from the corporate and private sectors, and some from the Royal University of Bhutan.

Advantages of integrated inspection

- The main advantage of integrated inspection is the saving on administrative and support resources, including information and transport. Instead of several separate administrative systems (e.g. working conditions, safety, health, employment agents) and the resource support required to maintain them, there is one. The system is more demanding on inspectors, because one inspector must cover six different technical areas.
- Integrated inspection normally makes better use of inspection staff time, resulting in more inspection visits than under arrangements where inspectorates operate separately and independently.

- Integrated inspection makes better use of available vehicles.
- Integrated inspection can reduce the inspectorate's salary costs in that it is no longer necessary to employ on a full-time basis high cost specialists such as engineers, doctors and chemists. These specialists can be engaged on a retainer basis or fee-for-service usually at a lower total annual cost than if they were permanent employees.
- Integrated labor inspection is usually strongly supported by employers. Instead of having to receive five or six separate inspectors arriving at different times, and sometimes giving conflicting advice, the employer deals with one inspector only.

The main **disadvantage** of integrated inspection is the potential reduction in the quality of inspection work due to the general inspector's lack of detailed technical knowledge. This shortcoming is addressed by providing general inspectors, usually with a background in social science, with basic technical knowledge concerning occupational safety and health, and ensuring that technical specialists are available at short notice to assist the inspector when required.

Work Plans

Each labour inspector will work in accordance with a monthly work plan showing workplaces to be visited and when, and including some time for office work, and handling the unexpected. This will be prepared under the supervision of the Chief Labour Officer who will ensure that high-risk enterprises are given priority.

The preparation of the work plan shall take account of the following:

- Inspectors will work in pairs.

- Each team shall undertake a minimum of 20 routine visits per month.
- The work plan will identify the enterprises to be inspected by name, location, and risk rating, and indicate the team to undertake each visit.
- The work plan will be prepared on a rolling 3-month basis. The first month of the plan will be firm and specific, the second month less definite, and the third month even less definite. Towards the end of the first month the second month will become firm and definite and thus become the first month of a new 3-month cycle.
- Transport will be allocated to each team.
- The work plan will be prepared in a standardized, computer-generated format, as outlined in ATTACHMENT A. This indicates enterprises to be inspected, their location, risk rating, inspectors who will undertake the inspection, the planned date for the inspection, the actual date on which the inspection was completed, and a column for any special remarks (e.g. enterprise temporarily closed, follow-up inspection required, uncooperative management, good safety practices.)

Chapter 5

Conducting an Inspection Visit

Your day-to-day work as a Labour Inspector requires that you visit enterprises on a regular basis. **You cannot do effective inspection work sitting in your office!** We must take action to eliminate problems, prevent problems from arising, and make sure that employers and workers comply with the law. Conducting an inspection visit involves five main steps, as follows.

- Planning the inspection visit
- Preparing for the visit
- Visiting the enterprise
- Follow-up action
- Reporting

Planning the inspection visit

The Monthly Work Plan prepared by the CLO in consultation with you will indicate the enterprises by name, location and risk rating to be visited in the forthcoming month.

The Monthly Work Plan will be displayed on a wall in the inspectors' office. It will indicate where you are expected to be on each day of the month.

As visits are completed, these will be checked off on the master copy of the Monthly Work Plan.

Planning our work is not just desirable, it is absolutely essential. Without it:

- our work will lack focus
- we will fail to make the best use of our time
- we will not serve our clients as well as we should

Preparing our work plans requires that we together with the CLO and make full use of the Department's data-base. It is important, therefore, that the data-base be kept up-to-date and is readily accessible by all inspectors.

You are not permitted to decide by yourself which enterprises will be inspected in

Preparing for the inspection visit

Preparing for the visit involves a number of steps.

Making an appointment

Although you have the power to visit without an appointment your initial visit will involve making and confirming an appointment. This will ensure the people you wish to talk to will be available.

Checking background information

In the early months and years of inspection work you will not have a file on each enterprise. This will be built up over a period of time. Eventually, however, we will have an inspection file on every enterprise visited. You should read this before your next visit to that enterprise. This will give you information on the size of the enterprise, work processes, any previous problems, work accidents, complaints from workers). This part of preparing will help you to **anticipate** the sorts of things you will see. Be careful, however, not to make any judgments until you actually see and hear what is happening at the enterprise!

Collecting material

You need to collect materials you will take with you on your visit. This will include a copy of the labor law and regulations,

and any information pamphlets or brochures you can leave with the employer and workers.

Equipment

You need to organize any equipment you need to take with you on your visit. For some visits you will need to take measuring equipment to measure noise, temperature, and dust levels. You may also need a digital camera and a mobile phone. Make sure they are in working order.

Protective clothing

Organize your own protective clothing and equipment. This will include a safety helmet, safety boot, safety masks, gloves and apron. This will not be necessary for every visit but for some visits is essential (e.g. building sites, cement factories, sawmills).

Transport

You will need to arrange transport to ensure you arrive on time and are transported back to your office. You should not rely on the employer to provide transport. You must be independent in this regard.

Remember, at a later stage, you will be conducting inspection visits by yourself. You must prepare carefully. You will be on your own once the visit actually commences.

Conducting Inspection

Conducting the visit involves a number of steps. You should follow these steps for each visit.

Gaining entry

Larger enterprises usually have security guards who may try to prevent you from entering. This is one of the reasons why you should make an appointment. You may need to show your identity card to the security guards and explain the purpose of your visit. Be patient but be firm. It is your right by law to enter work places with or without an appointment, and you must not let security personnel prevent you from entry.

Initial contact

Once you enter the workplace you should make contact with representatives of management before you do anything else. Try to meet the most senior managers. This initial contact should also include contact with any worker representatives or members of safety and health committees. Tell them the purpose of the visit and what you will do during the visit. It is important that you take control at this early stage. You are in charge. It is your visit. Be courteous but firm. If the managers appear to be uncooperative, spend some time convincing them that the visit will help them to improve things in their enterprise. Stress that your aim is not to be a policeman but, rather, to improve things for the benefit of both workers and managers.

Actual inspection

This is where you observe the working environment, examine records and documents, and talk to workers and managers. If you lack experience as an inspector, it is best to arrange the inspection so that you can follow the work-flow. For a manufacturing enterprise, this means you would start with the unloading and storage of raw materials, proceed to the processing section, then

to finishing and packaging, then to storage and dispatch. The inspection would finish in the office checking books and documents. Once you gain experience you come to know the likely problem areas in each enterprise, and you can proceed to go to that area without checking the entire work flow.

In conducting the inspection, **remember that you are in charge**. You should lead the inspection and not be led by management. You should insist on seeing all parts of the enterprise you want to see, not just those parts the management would like you to see! Look outside the building as well as inside.

During your visit you should talk to workers to find out any problems they may have. Do this without the presence of a manager. If a manager or supervisor is present, the worker will say things to please the manager, rather than what the worker really wants to say. Sometimes it is better to talk to workers during their rest break or at lunch-time.

You will have a checklist to guide you visit, but after you gain some experience the checklist will become more of a reminder than the dominant tool for your visit. During the visit, focus on the major problems.

The exit meeting

Before you leave the enterprise, you should conduct an exit meeting with senior managers. If possible, this meeting should include some representatives of workers, particularly a representative of the workers' committee and safety and health committee if the enterprise has one.

During this meeting you should highlight the main outcomes of your visit. Refer to some good things first. In highlighting the problems, concentrate on four or five major issues of concern. If you present a list of 20 or more issues management may become defensive and adopt a negative approach.

You will have to decide whether to issue an Improvement Notice 'on the spot' or whether you will notify the enterprise of improvements to be made by letter. If you issue an 'on the spot' improvement notice, you will have to indicate the time period in which the improvement must be made.

During the exit meeting, stress that your aim is to improve the enterprise for the benefit of both workers and managers. Stress that you are trying to help enterprises comply with the law, not to punish them.

If you have identified some problems and issue an Improvement Notice indicate, that there will be a follow-up visit to check whether the improvements have been made.

Follow-up

After your visit, you may wish to consult with your colleagues and technical experts before you issue an Improvement Notice or warning letter. This may include some discussions with experts on particular technical problems (e.g. machine safety, chemical storage, dust levels) before you decide what action to take. It may also involve another visit, this time accompanied by a technical expert to advise you.

Reporting

Each inspection visit that you make must be followed by a written report. This is placed on the enterprise file and becomes part of the institutional memory of the labor inspection division. Your report will take the form of a completed pro forma, together with the addition of some remarks.

Your reports should be sent electronically to the CLO who will comment as necessary and then transfer the report to the enterprise file.

You should try to complete your report on each visit as soon as possible after the visit, preferably on the same day.

Reporting is important. As well as being used as a possible source of legal action against an employer, your reports will also be used as a basis for collecting statistical information and for writing monthly and annual reports on labor inspection.

Accident Investigation

When an employer/ employee report a workplace accident or disease reporting, the Labour Inspector shall conduct an accident investigation. The process of accident investigation is mentioned in Form 8 of this handbook.

Chapter 6

Improvement and Prohibition Notices

Improvement notice

Under the Act, a Labour Inspector is empowered to issue an Improvement Notice to an employer. This indicates to the employer that he or she is in contravention, or likely to be in contravention, of the Act or its regulations, and that the employer is required to take remedial action.

The Labour Inspector may issue the Improvement Notice on the spot or within 5 days after the inspection visit has been completed. The 5 day period is given to allow the inspector to consult with other Labour Inspectors and the Chief Labour Officer before issuing the Notice. A Labour Inspector may issue more than one Improvement Notice during an inspection visit.

The Labour Inspector is required to indicate the number of days the employer has to remedy the contravention and this period must be more than 7 days calendar days but less than 35 calendar days. If the contravention is serious, the inspector would normally give the employer a short time to remedy the contravention. For example, if the employer has underpaid wages or failed to pay overtime, this is serious and the inspector would normally give 8-10 calendar days to remedy the contravention.

If, in the opinion of the Labour Inspector, the breach of the law is less serious such as a failure to appoint a safety officer within the required time period, the inspector may give 30 calendar days for the employer to rectify the problem.

By being empowered to give the employer between 8 and 34 calendar days for the contravention to be rectified, the inspector has some discretionary power and is thus placed in a potential negotiating situation. The employer may want the longest possible

time to rectify the problem, say, 34 calendar days but the inspector may want the shortest, say, 8 calendar days.

As a Labour Inspector you should not automatically 'give in' to the employer's request. You may make some concession by extending the time from 8 days, but this needs to be done in response to convincing argument from the employer.

The Improvement Notice shall be issued only once to a particular section that has been contravened.

Prohibition Notice

Under the Labour and Employment Act an inspector is empowered to issue a Prohibition notice to an employer. This indicates to the employer that there is something or an activity in the workplace that involves a serious risk to the health and safety of any person, and that the workplace or part of the workplace must close down until the serious risk is eliminated.

The Labour Inspector may issue a Prohibition Notice to stop an immediate risk emanating from within the workplace to the safety or health of any person in consultation with Chief Labour Administrator.

This gives the Labour Inspector considerable power and thus requires that the inspector act professionally and responsibly. For example, if an inspector visiting a construction site is of the opinion that a wall is about to collapse and that workers and supervisors are at risk of serious injury, the inspector could issue a Prohibition Notice on the spot. This would require the construction site to close down or at least that part where the danger exists.

Similarly, a Labour Inspector may prohibit the use of a particular machine, piece of equipment, or process that poses a serious risk by issuing a Prohibition Notice for the machine, item of equipment, or process. The Labour Inspector may issue more than one Prohibition Notice during an inspection visit.

The content of the Prohibition Notice shall be in accordance with the Labour Inspection Regulation 2009 which further elaborates the powers, functions, obligations, procedures and practices of labour inspectors as provided under Chapters III and IV of the Act.

Once a Prohibition Notice is issued it will remain in force until the Labour Inspector certifies that the situation that gave rise to the serious risk no longer exists, or the employer appeals to the CLA against the Prohibition Notice and that appeal is upheld.

Appeals against Improvement or Prohibition Notice

An employer may appeal to the CLA against the issuing of an Improvement or Prohibition by a labour inspector. This appeal must be in writing and should state the reasons for the appeal. This appeal must be lodged with the CLA within 15 **calendar** days from the date on which the notice was issued.

The CLA shall hear the appeal and respond, giving reasons for his or her decision, within 15 **working** days from the date of receiving the appeal.

The outcome of the appeal will be communicated to the employer using Form 9 of this handbook. This Form shall be used for communicating the outcome of appeals for both Improvement Notices and Prohibition Notices.

Penalty Memo

Under the Act, a Labour Inspector is empowered to issue an Penalty Memo to an employer if the employer has not rectify contraventions mentioned the Improvement Notice.

If the Penalty Memo was issued to the employer during the last inspection visit and still if there is same contravention in that same workplace, the Labour Inspector shall issue the Penalty Memo with double the 78amount of penalty imposed in previous visit.

The Labour Inspector may issue a Penalty Memo to an employer for violating any sections related to employee's basic rights without issuing an improvement Notice.

Chapter 7

Skill Requirements

Handling Disputes

As a labour inspector you are not required to handle labour disputes. This will be done by labour relations officers.

You have an important role to play, however, in preventing disputes from arising. A disagreement or conflict between workers and their employer does not become a labour dispute until it is formally notified as a dispute to the Chief Labour Administrator. If a disagreement can be settled within the enterprise it will not become a labour dispute.

There are two types of labour disputes, namely:

- Rights disputes
- Interest disputes.

Labour inspectors have a major role to play in preventing rights disputes from arising by undertaking regular visits to enterprises to check on compliance with laws and regulations, by observing the working environment, by talking to managers and workers, answering questions and giving advice.

Interviewing

Labour inspectors spend some of their time conducting interviews. This is an important part of our work and we need to do it well. Interviewing is one aspect of communication. You will not be able to conduct an effective interview unless you are an effective communicator.

What is an interview?

An interview is a structured conversation. It involves two or more people talking to each other, but in a structured way. It is different from a social conversation that is usually unstructured, and does not have a particular purpose. In an interview situation the two parties are the interviewer, and the interviewee. In most cases, labour inspectors are the interviewer which means that it is your responsibility to 'structure' and lead the conversation.

Purpose

The purpose of an interview is to collect information. We do not want information for its own sake – we want it to assist in making decisions. Thus the purpose of an interview is to collect information to assist us to make a decision.

A labour inspector interviews an employer to find out the level of wages paid to workers. The inspector is collecting information to determine whether the employer is complying with the law. The inspector will then make a decision as to what to do. If the employer is complying the inspector will do nothing. If the employer is not complying, the inspector will have to decide how compliance can be secured.

Conducting an Interview

Conducting an interview involves a number of distinct stages.

Preparation

As the interviewee you will need to establish the specific purpose of the interview.

What information do you wish to collect?

Is this information already available from other sources?

Is it really necessary to conduct the interview at all?

You will also need to consider the time available to conduct the interview.

How much time will you have for the interview? If you expect that an interview will take 30 minutes, but you only have 10 minutes available, it is better not to start.

You need to know where the interview will be held.

- Will you conduct it in your office?
- How will you avoid interruption by telephone or by other people?
- Is it possible to arrange a separate interview room?
- What will be the seating arrangements?
- Will you sit behind your desk, with the interviewee on the other side?
- Will you sit at a table?
- Will you sit in comfortable chairs?

You need to have available support materials and documents.

- What documents and files will you require for the interview?
- Does the interviewee know what documents are required?
- Will you be completing an interview form during or immediately after the interview? Are copies of this available?

Commencing the interview

Introduce yourself and welcome the interviewee.

You should allow a little time for the interviewee to adjust to the situation. You could start with some brief social conversation to help the interviewee to feel comfortable.

The interview itself

- This is the part of the interview where you make every effort to collect the information you require.
- You should ask questions, and listen to the answers.
- You should encourage the interviewee to do most of the talking.
- Observe as well as listen.
- Be aware of your own body language.
- Show interest in what the interviewee is saying.
- Lead the interview but do not make it too structured or formal.
- If the answers to your questions lead to information that you did not expect but is nevertheless useful, encourage the interviewee to talk about these things.
- Try not to take detailed notes during the actual interview. Record information after the interview.
- Be aware of time constraints.
- If the interviewee is slow to answer a question, do not rush. Short periods of silence are not a problem.
- Remember you are asking questions to gain information. You are not interrogating a witness.

Ending the interview

- You should ask the interviewee if there is anything he or she would like to clarify. This may mean that they ask you some questions.
- You should end the interview when you have collected all the information you require. There is no point in continuing the interview after that.
- Or the interview should end at the end of the allocated time even if you have not obtained all the information you would like to have.
- Advise the interviewee of the next step after the interview.
- Do not make any promises to the interviewee that you cannot keep.
- Thank the interviewee for attending the interview.

Asking questions

One of the most important interviewing skills is asking questions. You can ask two types of questions – open questions, and closed questions.

Closed questions have a specific answer and do not require any extended response from the interviewee.

What is your name?
How old are you?
Where do you work?
What is your job?

The response to closed questions is either 'yes' or 'no', or by providing factual information.

You will need to ask some closed questions during an interview. They can give the interviewee confidence and provide useful information, provided you ask the right questions!

Open questions call for an extended response, and cannot usually be answered by 'yes' or 'no', or by giving factual information. They usually require the interviewee to give an explanation or an opinion. Such questions provide useful information but must be relevant to the purpose of the interview.

- How can we improve the working environment in this enterprise? This is an open question.
- Would you like to establish a safety and health committee? This is a closed question.
- Why would you like to have such a committee? This is an open question.

During most interviews, you will ask both closed and open questions. When you are asking questions:

- Avoid asking questions that use highly technical language.
- Avoid asking multiple questions.

What do you think about the working conditions, the working environment, and the communication system in the enterprise?

- Avoid asking question that amount to statements.

You don't really know much about the labour law, do you?

SECTION 3

LABOUR RELATIONS DIVISION

Chapter 1

What is Labour Relations?

The Nature of Labour Relations

'Relations' means interaction. This interaction can take place between countries (international relations), between individuals (personal relations) and between family members (family relations.) Labour relations are concerned with interactions between employees and employers, between workers and managers, in some cases between one employer and another, and one worker and another.

We are interested in the interactions that take place at work, or arising out of the work situation.

The scope of labour relations is limited only by the definition of a workplace. Thus, labour interactions take place in banks, offices, factories, private houses, shops, farms, mines -- indeed, anywhere work takes place under a contract of employment between a worker and an employer. It is also possible for interactions to take place outside the actual workplace. Interactions can take place between representative bodies of workers and employers at national and industry/sector levels, as well as at district levels. Thus labour relations are not confined to enterprise level interactions, although this is the level that will be the main concern for Bhutan's labour relations officers for the foreseeable future.

Labour relations involves more than interactions between workers and employers, and their respective organizations. These

interactions are influenced by government, through its labour administration. Labour administration is interested in labour relations at all levels. The labour administration has an important role in reducing conflict and encouraging cooperation between workers and managers.

Definition

Labour relations is concerned with the interactions between workers and employers, and their respective organizations, as influenced by government, at work or arising out of work. Its objective is to encourage harmony and cooperation in workplaces, prevent and reduce labour-management conflict, and resolve conflicts that do arise as fairly and quickly as possible.

The relations between a worker and an employer are established by a contract of employment. The Government intervenes in this contractual relationship by establishing minimum standards that must be included in the contract. The contract of employment between the worker and his/her employer can include terms and conditions that are better than those required by law, but cannot include terms of a standard below that set by law.

Accordingly, labour relations include the interactions between the individual worker and his/her employer concerning the formation and implementation of the contract of employment.

Workers' may form a workers' organization and employers may also form associations. A worker's association may then bargain with an individual employer or an employers' association. This is known as collective bargaining and is a major component of labour relations.

In many countries, workers' organizations may join together to form a workers' federation. Employers may do the same. This is

also the concern of labour relations. Thus, labour relations involve interaction at:

- enterprise level (both individual and collective)
- industry level (associations/unions)
- national level (federations)

Inputs, process, outputs and outcomes

We can explain labour relations by reference to a simple input-output model involving 4 parts, namely, **inputs**, **process**, **outputs**, and **outcomes**.

Inputs

The inputs in labour relations comprise

- the 'actors', and
- the environment in which those actors operate.

The actors

There are three actors, namely:

- workers and their associations, committees or organizations,
- employers and their associations or organizations,
- government at various levels (national, regional, Dzongkhag, town).

The behavior of the actors will be influenced by their **power**, and their **values** or beliefs. Their behavior will also be influenced by the environment in which their interactions take place.

The relations or interactions between an individual employee and his or her employer are based on a contract of employment that establishes minimum standards (e.g. pay, allowances, holidays, and hours of work.) These minimum standards normally are set by government intervention. This relation is an **individual** one between the worker and the employer, and is the starting point for an understanding of labour relations in general.

Workers may choose to form or join a workers' association with the purpose of combining together to see if they can gain some improvement in their working conditions and environment. Thus, it is now possible for interactions to take place between a group of workers and the individual employer. The workers' bargaining strength is greater because they combined together. This level of interaction is known as **collective bargaining** – bargaining between a group of workers and an individual employer. It is also possible for collective bargaining to take place between a group of workers and a group of employers. Collective bargaining can take place without a workers' association, provided workers come together as a group and negotiate with an employer (or group of employers.)

The government has an influence on the nature of the interactions between workers and employers. For example, the government may set a minimum wage, maximum hours of work, minimum periods for rest breaks and holidays, and various standards relating to safety and health in the workplace. The government may require both the employer and individual worker to pay social security contributions, and taxes on income.

The interactions between the actors in the labour relations system can be individual, collective, or both, and may take place at different levels. For example, some interactions are between

workers and one employer, which mean that interactions are confined to an individual enterprise. It is possible, however, for a group of workers to interact with several employers as, for example, all employers in the tourism sector. This would mean that the interaction takes place at industry rather than enterprise level. It is also possible for workers who have formed a national federation that brings together all workers in all sectors and industries, to interact with a national federation of employers that can speak on behalf of all employers.

The nature of labor relations interactions will also depend on:

- **The power of the actors.** For example, a workers' association with just a few members, few subscriptions, and little finance has virtually no power. On the other hand, an association with all workers in the enterprise as subscribing members can be much stronger. An association with national or international affiliations can be even stronger.
- **The values or beliefs of the actors.** For example, if a workers' association or group of workers is driven by the values of socialism, but the employer embraces the values of capitalism, there is the possibility of disagreement between the workers and the employer on grounds of differing principles and values.

The environment

The environment in which the actors operate is another important **input** in the labour relations system. The environmental factors include:

- **The political environment.** Is the political environment supportive of workers' associations? Is the political

environment pro-employer? Does the political environment support consultation, openness and information sharing?

- **The legal environment.** Is the legal environment one that supports a high degree of government intervention? Or is it more of a 'framework environment' in which the government establishes a broad framework and encourages workers and employers to resolve their own problems? Does the legal environment support freedom of association and collective bargaining? Are workers able to form and join associations of their own choice?
- **The economic environment.** Is the economy growing and strong, or contracting and weak? What are the implications for labour relations? What is the current state of employment and unemployment? Are retrenchments planned or currently taking place? What is the level of inflation? What is the economic situation for particular sectors and industries? (e.g. manufacturing, tourism, services.)
- **The technological environment.** Does the workforce have the necessary skills required by enterprises? Is there an emphasis on capital or labour intensive productive methods?
- **Social and cultural environment.** What are the traditional ways of resolving conflict? Is there an emphasis on competition and winning, or on cooperation and compromise?
- **Religious environment.** Is there a tendency for religious beliefs and spiritual values to influence worker-employer interactions? Have labour laws been influenced by spiritual values?

The process

The actual interactions between the actors can take a number of forms.

One party dominates

This means that there is **no** interaction at all – one party tells the other follows. For example, the employer changes the shift roster in an enterprise without any discussion with workers, or the employer tells the workers they must work overtime to hold their jobs. It could also refer to the government changing the level of minimum wages without any consultation with workers or employers, or government unilaterally changing the laws on severance pay. There may be cases of workers' associations telling employers that they refuse to work until the workplace is made safe. If one party tells and the other does not follow, they are in disagreement and a dispute can be expected.

Two parties interact

This usually refers to workers and employers coming together in bi-partite discussions and bargaining, but may also refer to interactions between government and workers, and government and employers. Collective bargaining leading to agreement between the parties is one form of bi-partite interaction, but it also includes two parties discussing problems in a process of consultation without this leading to a formal agreement.

Three parties interact

In this case government, workers and employers come together in a tripartite body to discuss problems and issues. The most common outcome is advice, usually to government, to enable it to make

better decisions as a result of receiving the viewpoints of workers and employers. Such interactions do not result in legally binding decisions, and are usually initiated by government, unless employer and worker organizations are powerful enough to insist that the government consult with them.

The quality of interactions refers to the extent to which those interactions are sincere and in good faith. Some interactions, for example, are superficial with the parties not really committed to learning from each other. In such cases the interactions are cosmetic, and have no tangible result.

For example, government may decide to discuss a revised labour law with employers and workers, but only after it is in final form. In this case the consultations would be meaningless because the government has reached a final position before consultations take place.

The interactions between workers and employers in a collective bargaining situation can also lack sincerity as, for example, where the workers have made up their mind before negotiations commence to go on strike as a show of power. Similarly, management may agree to negotiate with workers but adopt an unreasonable and fixed position, with no intention of making even the smallest concession. Such interactions indicate a low level of commitment and are far divorced from true and real interactions.

Alternatively, the interactions may be driven by a desire to find a better result, with all parties placing a high value on the interaction process because they have confidence in its outcomes. For example, government may initiate consultations with workers and employers at the very start of the law revision process because it believes the final outcome will be better as a result.

Workers and employers may enter a bargaining situation willing to make compromises, and be prepared to move from their original positions to enable a mutually acceptable solution to be generated. This is an example of interaction based on respect, and willingness to compromise.

The outputs

The **output** is the immediate product of the interactions between the parties. The outputs are commonly referred to as 'the rules'. This is why labour relations is sometimes defined as a 'rule-making process.'

There are two types of rules, namely:

- substantive rules, and
- Procedural rules.

Substantive rules are those with a clearly measurable content and include the following.

- Wages will be increase by 5% commencing next month.
- Workers will receive 2 additional days annual leave.
- Overtime rates will increase by 10%.
- 50 workers will be retrenched.
- The probation period for new employees will be 3 months.

Procedural rules concentrate on how things are to be done, rather than the actual detail of the particular rule. Examples of procedural rules include the following.

- There will be a new grievance procedure in the enterprise.
- All disputes will be referred to a conciliator in the first instance.
- Rights disputes will be referred directly to an arbitrator.

The outcome

The **outcome** refers to the result or final impact of the interactions between the parties. It refers particularly to the reaction of the parties to the **outputs** or **rules**.

If the **rules** are seen to be fair and thus accepted by the parties, there will be harmony and cooperation. If the rules are seen to be unfair and not accepted by all parties, there will be conflict, discord, disagreements and possibly labour disputes. If there are disputes they will have to be resolved by:

- negotiation and bargaining;
- conciliation;
- mediation;
- arbitration;
- adjudication.

What should be done if the labour relations outcomes are unacceptable?

If the outcome is not acceptable, it is necessary to change the outputs or the rules. In order to change the rules, we must:

- change the inputs;
- change the process; and
- change both the inputs and the process.

We can strengthen the inputs by building the knowledge and skills of the actors, and encouraging attitudes directed towards increased cooperation. This involves building both abilities and willingness.

We can strengthen the process by:

- more sharing of information;
- creating new structures to facilitate consultations and discussions;
- encouraging consultation and joint-problem solving; or
- encouraging negotiation and collective bargaining.

It is clear that labour relations interactions are complex. At the same time, they are manageable. The labour relations system works best when the parties are:

- informed,
- committed to harmonious relations,
- willing and able to discuss their differences,
- willing and able to compromise.

Labour relations in a market economy accept and recognize that workers and management have a separation of interests. This is seen as legitimate. But this separation of interests does not have to mean constant conflict. Both parties can work together to resolve their differences and reach a common understanding. The conflicting interest creates the need to discuss and negotiate – the common interest creates the means to reach compromise and agreement.

Chapter 2

Your work as a Labour Relations Officer

Information giving and raising awareness

As a labour relations officer one of the core responsibilities will be to inform workers, employers and other government officials on the nature and purpose of labour relations in a market economy. This will involve in planning, organizing and actually conducting workshops to explain the various types of interactions that take place in a labour relations system.

In Bhutan, most of the interactions will take place at enterprise level. This means that you will have to explain how workers and managers can cooperate together to ensure their common interests are met. It is expected you will design and conduct training workshops at enterprise level for both the corporate and private sectors on the nature of workplace cooperation.

As a labour relations officer you will be expected to work in close cooperation with labour inspectors. You will not have the same power as inspectors to enter workplaces and issue improvement notices, but you will work with them to help explain the meaning of the labour and employment law, and ensure that both workers and employers are aware of their legal rights and obligations.

Much of your work is concerned with encouraging cooperation between workers and employers, thereby preventing conflict and disputes. As the labour relations system develops, however, it is expected that some disputes between workers and managers will arise. It is not always possible to maintain harmony at all times, and disagreements can lead to disputes. In such cases, labour

relations officers will play a leading role in resolving these disputes through investigation and conciliation. Conciliation does not mean making a decision as to how a dispute will be resolved or telling the parties what they must do. Conciliation is concerned with assisting the parties to reach a solution to their problem, but without making a decision for them.

In some cases, other persons will be appointed as conciliators and in such cases your task will be to assist those conciliators in their work, particularly on matters contained in the labour and employment law where you will have superior knowledge.

Role and functions of labour relations officers

The functions of a labour relations officer in Bhutan are as set out in Section 25 of the Act. These functions fall into two main categories, namely, dispute prevention and dispute resolution.

Dispute prevention

Under Section 25 of the Act, a labour relations officer is required to:

- promote workplace harmony and cooperation
- provide advice and information to employers and employees about their rights and obligations under the Act.

What do you have to do to prevent disagreements and conflict from arising in the workplace?

In a market economy, disagreements and conflict between workers and their employer are inevitable and normal. The separation of interests between workers and employers is accepted, but arrangements need to be in place to ensure that the conflicting interests are not disruptive to the production process.

The same situation now applies in Bhutan. There will be conflict between workers and employers over many issues including:

- wages and related issues including non-payment and under-payment of wages, late payment, and failure to pay for overtime hours worked,
- unfair dismissal of workers,
- breach of employment contracts
- unsafe and unhealthy working environment,
- favoritism with regard to recruitment, promotion and related matters,
- sexual harassment
- Personal clashes between workers and supervisors.
- Non-payment of post-employment benefits including PF and Gratuity

Conflict over these matters can be minimized or at least reduced through a range of preventive measures including the following:

- Regular visits to workplaces by Labour Relation Officers to create awareness to both the employers and employees on their rights and obligations under the law.
- Facilitate and assist the enterprises to have Internal Service Rules, endorsed by the Chief Labour Administrator.
- Ensure that employees have written contracts of employment that set out clearly the terms of employment, particularly concerning wages and benefits, the duration of the contract, probation period, and notice period for termination.
- Ensure that each employee is provided with a detailed job description that is modified from time to time to meet changing circumstances.

- Ensure that the enterprise has a grievance procedure that is known to all employees and fairly implemented.
- Ensure that the enterprise has a sexual harassment policy and a related program of action.
- Ensure that in enterprises with 12 or more employees that voluntary workers' associations are allowed to be formed and operate.

With the exception of the routine visits of labour inspectors, all these preventive measures fall within the duties of a Labour Relations Officer.

You should note that your preventive work is assisted by the availability of the following documents on the Ministry website which can be down-loaded as models for enterprises to adapt and follow.

- Contract of employment
- Model internal service rules
- Enterprise occupational health and safety policy.
- Enterprise sexual harassment policy.
- Enterprise grievance procedure

Dispute resolution

Under Section 25 of the Act, a Labour Relations Officer is required to:

- investigate the nature and causes of a labour dispute.
- assist the parties to reach a resolution to their dispute.
- advise a conciliator appointed under the Act on the rights and obligations of employers and workers. (This will assist the conciliator in his or her duties in trying to bring the disputing parties to an agreement.)

- report to the Chief Labour Administrator on matters relating to the conduct of a labour dispute.

This means that a Labour Relations Officer has a number of roles. He or she is:

- an informant
- an advisor
- a trainer
- an investigator
- a conciliator
- an assistant to a conciliator who is not a Labour Relations Officer.

A Labour Relations Officer has different functions from those of a Labour Inspector, and no power to enforce the law. The law does, however, indicate a number of obligations that apply to all Labour Relations Officers.

- Labour relations officers must not reveal any manufacturing or commercial secrets they see or hear in the course of their work. (Failure to meet this obligation is an offence leading to a fine and or imprisonment as well as any administrative action the Ministry may initiate.)
- Labour Relations Officers shall treat as confidential the source of any complaint under the Act and its regulations. (Failure to meet this obligation is also an offence with the same penalties as above.)
- Labour Relations Officers must avoid conflicts of interest as, for example, where they have a personal or financial interest in any matter they are required to work on. (Failure to meet this obligation is an offence less serious than those referred to above, but could still lead to a fine.)

Labour Relations in Bhutan

Labour relations in Bhutan are governed by the Act and its regulations. Labour relations are in its infancy. The labour law was not introduced until 2007 and although prior to this workers and employers had their disagreements and differences, there were no labour disputes, workers were not permitted to form associations, and there was no collective bargaining. This situation has now changed.

Under the Act and its related regulations:

- workers may (it is not compulsory) form a workers' association in enterprises employing 12 or more workers, but only one association per enterprise;
- a workers' association is entitled to negotiate a collective agreement with the employer;
- enterprises employing 12 or more employees shall in consultation with the workers' association prepare and implement a workplace grievance procedure;
- grievances that remain unresolved shall be notified to the Chief Labour Administrator as a labour dispute; and
- the Chief Labour Administrator is empowered to take the necessary steps to resolve the dispute (S 195-210).

Labour relations officers have a key role to play in this dispute resolution process, a role that requires specialist knowledge and skills as well as a number of particular personal attributes.

Chapter 3

Handling Grievances

What is a grievance?

A grievance is a complaint by one or more workers, a workers' association, or an employer, relating to any matter concerning working conditions or the working environment arising at work or out of the workplace, as covered by the Labour and Employment Act, 2007.

In almost every case, however, a grievance is concerned with a complaint by a worker, in that any complaints by an employer are normally handled under the enterprises disciplinary procedure. In most cases, grievances relate to complaints concerning **existing** terms and conditions of employment but there may be a few circumstances in which the complaint relates to future benefits as, for example, better protective clothing and equipment, new arrangements for providing clean drinking water, or different shift arrangements.

A grievance might normally relate to the existing rights of workers under the Act and its regulations, but may also arise under a written contract of employment, internal service rules, a collective bargaining agreement between workers and their employer, and any rules established by custom and practice. In some circumstances, it may also relate to future benefits.

Procedure

A labour relations officer has no direct involvement in handling grievances, other than to ensure that workers and their employer

follow the grievance procedure established under the Act and its related regulations.

This involves advising and informing both parties of the content of the Act and regulation, and what they need to do to comply with the provisions of the law. It does not involve the Labour Relations Officer in any direct action to resolve the complaint. At this stage, the complaint belongs to the workers and their employer: the role of the labour relations officer is to encourage them to resolve any problems by themselves, in accordance with the grievance procedure set by law. This may involve providing advice to either party, consistent with the need of the labour relations officer to remain impartial and objective.

Enterprises with 12 or more employees are required by law to have a written grievance procedure in place, and failure to do so attracts an administrative fine. The Department of Labour within the Ministry has prepared a model grievance procedure for enterprises to consider and adapt and further develop, as necessary, to meet the particular requirements of the enterprise.

A well-respected and efficient grievance procedure can prevent relatively minor complaints from escalating into labour disputes which, by law, must be notified to the Ministry. Once a complaint is notified to the Ministry as a labour dispute, the workers and employers no longer have full control over their disagreement. Accordingly, it is much better if grievances can be settled within the enterprise provided, of course, both parties agree on an acceptable solution.

The ***Grievance Procedure Regulation*** indicates the main requirements for the preparation and operation of a grievance procedure.

Preparation

- A grievance procedure shall be prepared in consultation with the workers' association within the enterprise or, if there is no such workers' association, with the employees of the enterprise.
- A grievance procedure shall be agreed and signed by the employer and three representatives of the workers' association or, if no workers' association exists, by three employees of the enterprise.
- The grievance procedure shall be written in simple language and presented in a form that is easy for all parties to follow.
- The grievance procedure once agreed shall be periodically reviewed by the employer and workers' association or, if no workers' association exists, by representatives of the employees, such review to take place at a time agreed between the employers and the workers' association or employees as the case may be.

Rights and obligations

- The employer shall not retaliate in any form whatsoever against an employee who lodges a complaint under the grievance procedure.
- Any employee who lodges a frivolous or mischievous complaint under a grievance procedure shall be subject to the disciplinary provisions of the Internal Service Rules of the enterprise or other disciplinary rules, to the extent that such rules exist, or the provisions for misconduct as provided under the Labour and Employment Act, 2007.

- An employee lodging a complaint under a grievance procedure shall be entitled to have a representative of the workers' association to assist him or her or, if no such association exists, shall be entitled to seek the assistance of another employee in the enterprise or another person outside the enterprise.
- An employee lodging a complaint under a grievance procedure shall be entitled to have time off during working hours to take advantage of the procedure, such time off to be paid at the same rate as if the employee was working.
- An employee lodging a complaint under a grievance procedure, and the employer, shall both respect the time limits set under the procedure and shall make every effort to resolve the complaint within the stipulated time.
- An employee lodging a complaint under a grievance procedure and the employer shall both do their utmost to resolve the complaint within the enterprise before notifying the complaint to the Ministry of Labour and Human Resources.
- An employee lodging a complaint under a grievance procedure and the employer shall use the grievance procedure with a clear understanding that this in no way limits reduces or compromises in any way their rights under the laws of Bhutan.

Steps in the procedure

- The grievance procedure shall comprise a number of clearly defined steps, with the number of steps to be decided by the enterprise in consultation with the workers' association or employees, in accordance with its size and production processes.

- Each step shall indicate what the complainant shall do, who shall receive the complaint, and the time period in which the complaint shall be dealt with.
- Each step shall indicate the records to be kept and who shall keep them.
- A sample Grievance Procedure shall be made available by the Department of Labour to any enterprise seeking guidance in the preparation of such a procedure.

Operational arrangements

- The employer shall make clear to all employees the name and position of each employee's immediate supervisor to ensure that a complainant knows who to contact in the event of a complaint.
- The employer shall take steps to ensure that all supervisors and managers identified at various steps in the grievance procedure are aware of their role and obligations under the procedure.
- The supervisor or manager at each step in the procedure shall keep a written record of proceedings and make this record available to the complainant for verification and agreement.
- The enterprise shall compile a list of third-party facilitators to be contacted and used at the last step in the procedure should the complaint not be resolved at an earlier step.

Chapter 4

Labour Disputes

If the grievance procedure has been exhausted but the complaint has not been resolved, either party can notify the Chief Labour Administrator of the existence of a labour dispute.

Similarly, if either party considers the grievance procedure to be too slow or not functioning as expected, they can withdraw from the procedure and notify a labour dispute to the Chief Labour Administrator (CLA).

Notification of dispute

In accordance with the Act, the notification of a labour dispute must be communicated to the CLA through various means of communication.

It is important, however, that the details of the dispute be recorded and placed on file. In practice, the CLA will direct a labour relations officer (LRO) to record the details of the dispute (Form 10).

The labour relations officer should complete this form, giving as much detail as possible. Each dispute should be given a number to assist computer filing and to indicate the number of disputes handled in a given period.

In completing this form, the LRO should give particular attention to section 7 of the form concerning the details of the dispute. The

LRO should examine any letters or other documents that help clarify the details of the dispute and ensure that such letters and documents are attached to the form. Once the form has been completed the LRO should sign and date it, and then forward it to the CLA for action.

Appointment of Labour Relation Officer to investigate

Once the CLA has examined the completed Form 10, the CLA can either send the dispute back to the parties to see if they can resolve it themselves or, alternatively, appoint a LRO to undertake an investigation as provided under Section 195 of the Act. If a LRO is appointed to investigate, the CLA will use Form 11. The CLA must appoint an LRO within two (2) days of the receipt of the notification of the dispute.

Investigation Report of LRO

Once an LRO has been appointed to conduct an investigation by the CLA, under section 195 of the Act the LRO has 7 days to complete the investigation and report back to the CLA.

The LRO will complete Form 12 which follows the requirements of section 195. In investigating the dispute the LRO is required to:

- Indicate the facts of the case;
- Indicate the procedures the parties have followed in their attempt to resolve the dispute;
- Indicate whether either party is in breach of the Act or its regulations;
- Advise the parties on their rights and obligations under the law concerning the dispute;
- Advise the parties on their options for settling the dispute;
- Assist the parties to reach a resolution of the dispute;

- Indicate to the CLA within 7 days whether the dispute has been resolved or not; and
- Indicate to the CLA the terms of the resolution if the parties have resolved the dispute.

Action to be taken on LRO's Investigation Report

Based on the LRO's Investigation Report the CLA will decide what action to take.

If the terms of the resolution of the dispute comply with the provision of the Act and its regulations, the CLA will send a letter to both parties indicating that the terms of the resolution of their dispute is in accordance with the law, and that the dispute has now ended (Form 13).

If the LRO's Investigation Report shows that the parties have failed to resolve their dispute, or the CLA considers that the proposed terms of the resolution fails to comply with the Act and its regulations, the CLA will notify the parties that the dispute remains unresolved and that they should jointly appoint a conciliator to assist in resolving their dispute. This will be done in accordance with Form 14.

The appointment of a conciliator marks a new step in the dispute resolution process. It represents an extension of the negotiation process by asking the parties to appoint a neutral third party to assist in finding a solution to their dispute. Detailed information on the conciliation process is presented in Chapter 7 of this Hand Book.

Failure by the Parties to appoint a Conciliator

In some cases, the disputing parties may not be able to find a suitable conciliator, or may not be able to agree on a person who enjoys their mutual trust and confidence, or may not be able to find a suitable person within the 4 day time limit set by law. In such cases the parties must notify the CLA that they have not appointed a conciliator and they must do this before the 4 day period expires.

On receipt of this advice the CLA will immediately appoint two (2) conciliators to handle the case. The appointed conciliators may or may not be labour relations officers. If they are not LROs the law requires that they be assisted by a labour relations officer.

The appointment of conciliators by the CLA will be in accordance with Form 15.

The Department of Labour has prepared guidelines to assist conciliators in their work. These can be downloaded from the Ministry's website or a print copy can be obtained from the Department of Labour.

Conciliators must ensure they follow the requirements of section 199 of the Act. They must:

- Commence the conciliation promptly;
- Conduct the conciliation in a fair and balanced manner;
- Call the parties to the dispute to attend meetings;
- Allow the parties to appear on their own behalf or be represented; and
- Be assisted by a labour relations officer.

Conciliator's report

Within 4 days of conducting the conciliation the conciliator is required to report to the CLA on the outcome of the conciliation.

If the conciliation was successful the report of the conciliator should indicate

- The names of the parties
- The issues in dispute
- How the dispute was resolved
- A record of the agreement reached and signed by the parties, indicating their free acceptance of its terms.

If the conciliation was unsuccessful the report of the conciliator should state

- The names of the parties
- The issues in dispute
- Why, in the conciliator's opinion, the dispute was not resolved

Even if the conciliator reports that the conciliation was successful, this does not automatically mean that the agreement reached by the disputing parties is enforceable and legally binding. The CLA must first check to see if the agreement reached is in conformity with the Act and its regulations.

If the CLA considers the agreement reached complies with the Act and regulations, the CLA will issue a letter to the parties and the conciliator indicating that the agreement is now legally enforceable and binding on the parties.

If the CLA considers the agreement reached is not in compliance with the Act and regulations, the CLA will write to the parties and

the conciliator indicating that the agreement is not enforceable, and explain why by referring to the relevant sections of the Act where the agreement fails to comply Form 16. The CLA is required to give the parties a maximum of 3 days to amend the agreement to ensure that it complies with the law.

Failure of conciliation

The conciliation process may fail for a number of reasons, as follows:

- The parties are simply unable to reach an agreement.
- The parties reach an agreement, but it fails to comply with the law.
- The parties reach an agreement, the CLA advises that it does not comply with the law, the parties submit an amended agreement, but it still fails to comply.

If the conciliation has failed the action taken by the CLA will depend on the nature of the dispute between the parties. The dispute may be either a rights dispute or an interest dispute.

A **rights dispute** is concerned with an existing benefit as provided under the law, under a contract of employment, under a collective agreement, or under custom and practice. It means one party has not received his or her legal entitlements. Such disputes are sometimes called legal disputes and in most cases, but not always, are individual disputes.

Example: A worker's contract of employment indicates that the worker is entitled to a basic wage of Nu 3000 per month. The employer pays only Nu 2500. In this case the worker has a **right** to receive Nu 3000. If the employer refuses to pay the agreed amount the worker can notify the CLA of a labour dispute.

Handling a Rights Dispute

If conciliation fails in a rights dispute, the CLA shall direct the parties to take their dispute to a court of law. This means that the Department of Labour no longer has jurisdiction over the dispute.

The disputing parties also lose control over their dispute because the decision will now be made by a judge, based on the evidence presented by the disputing parties. The Department of Labour is interested in the decision of the court so that it may record the outcome on its file, but has no influence over the actual decision of the court.

In advising the disputing parties that they shall take their rights dispute to court, the CLA would normally indicate to the parties that they may always revert to conciliation as an alternative to court proceedings.

Terminology

As a labour relations officer you need to be familiar with various terms used in labour disputes and their resolution.

Complainant: The person or persons who notify a labour dispute to the Chief Labour Administrator

Respondent: The person or person against whom a complaint has been made in a labour dispute

Rights Dispute: A labour dispute notified to the Chief Labour Administrator concerning a claim to an existing benefit.

Negotiation: A process in which two parties with both a common and a conflicting interest come together and talk with a view to making concessions and reaching an agreement

Conciliation: A process of extended negotiation in which an independent and impartial third party assists the disputing parties

to reach an agreement to their dispute, but without imposing a decision

Adjudication: A process in which the parties have their labour dispute heard in a court of law and a judge makes a decision that is binding on both parties.

Representative: A person appointed to speak on behalf of a party to a labour dispute in the process of conciliation and adjudication. Such person may or may not be a lawyer.

Chapter 5

Skill Requirements

Conciliation

Conciliation is a process whereby a third party brings the disputing parties together in order for them to solve their problems. The conciliator's primary role is to keep the parties together, reduce the parties inflammatory rhetoric and tension, open channels for communication and facilitate continued negotiations.

American Arbitration Association – The purpose of conciliation is to convert a two-dimensional fight into a three-dimensional exploration leading to the design of an outcome.

Edward de Bono – Conciliation is an extension of the bargaining process in which the parties try to reconcile their differences. A third party, acting as an intermediary – independent of the two parties and acting independently – seeks to bring the disputants to a point where they can reach agreement.

As a conciliator:

- You are a servant of the parties not their master.
- You can guide the parties but not impose your views.
- You are a facilitator, not a judge.
- You are not an advocate for either party.
- You can alter the power relationship between the disputing parties by showing them that their positions are not sacred and can be changed.
- You are a source of information and ideas.
- You are an educator who informs each part of the other's position.

- You strive to maximize the gains for both parties.
- You do not make decisions or impose decisions about the dispute. You assist the parties to find their own solutions.

Three stages of conciliation

Once you have been appointed as a conciliator either by the disputing parties themselves or by the CLA, the actual process is the same. A typical conciliation is comprised of three stages as follows:

- Preparing for the conciliation
- Conducting the conciliation
- Reporting and follow-up

Preparation for the conciliation

First contact

- Before the conciliation commences, you will need to make contact with both parties, separately, to inform them of the nature of the conciliation process and your role in it.
- Indicate that you wish to help both parties.
- In your first contact with the parties try to establish trust, confidence and credibility.

Collect information

- Establish the facts of the case and disregard rumors.
- Be sure you understand the background to the dispute.
- Verify the accuracy of information provided by the parties by asking questions and checking documents.
- Ask questions that are not threatening and that do not imply judgment.

Check the Labour Act

- Based on your initial contact with the parties you should check to see which sections of the Labour Act and its regulations, if any, apply to this dispute.
- If the dispute is an interest dispute (not concerning existing rights under the law or contract of employment) try to establish the distance between the parties and whether the claims are well supported by good argument.

Plan how you might handle the conciliation

Indicate that you are not trying to conciliate at this initial stage. You are simply verifying facts, collecting information, and familiarizing yourself with the parties.

Try to identify the issues and persons you think will be most difficult to handle.

Try to assess the extent to which the parties are prepared to change their positions to see if there is some scope for compromise.

Consider some of the techniques you might use during the conciliation:

- How will you handle the person who talks too much?
- How will you handle the party that you think might not be telling the full truth?
- How will you handle a person who is reluctant to talk, but whom you consider has something important to say?
- How will you handle a situation that shows lack of respect to you or one or other of the parties if it arises?
- Should you explain to the parties the negative consequences if they fail to agree?

Think about a sequence for handling the issues, assuming there are several to be resolved.

- Should you handle the simpler issues first to gain some agreement and give the conciliation some momentum?
- Or should you tackle the main issue head-on and leave the smaller issues for later?
- Is there some way you might suggest a re-packaging of the issues to find some tradeoffs?

Develop a time frame. Remember that conciliation is not expected to go on forever. There are also time limits established under the Labour and Employment Act, 2007 – you have four days! There are also time limits with regard to the concentration spans of the disputing parties and their need to do other things.

Conducting the conciliation

Opening the conciliation

- Attend to the seating arrangements and ensure that you are in a position to observe and make eye contact with all present. Do not place yourself in a position of superiority by sitting in a larger chair, sitting on a raised bench, or sitting behind a desk.
- Introduce yourself and let the members of each party introduce themselves.
- Make your introductory remarks. This is sometimes referred to as the ‘Conciliator’s Speech.’ This is important and even if you are a very experienced conciliator you still need to do it. It should be brief, but also make very clear what you aim to do. Here is an example.

'I have been appointed by you (or by the Chief Labour Administrator as the case may be) under the Labour and Employment Act 2007 to assist you to resolve your dispute.

I am not here to judge you or decide the outcome of your dispute. The actual content of your final agreement is not my concern. My aim is to help you find some common ground so that you might reach an agreement that you are both satisfied with. I am here to assist you, not to be your master.

I want to bring you closer to this common ground by listening to you and talking to you both together and individually if necessary. I expect us to keep talking until it is clear that it is no longer productive to do so.

I am here to serve you and help you to the best of my ability but to do that we must be prepared to listen to each other and be prepared to adjust our positions on the basis of the arguments presented.

If I ask questions, it should not be seen as taking sides but merely as a means of obtaining information that might help in resolving the dispute before us.

Conciliation is about impartiality and trust. What we say in this room is confidential except that it is necessary under the Act for me to make a record of the outcomes of our discussions, whether they are successful or unsuccessful.

If we are successful I am required to report to the CLA on what you have agreed. If we are

unsuccessful, I am required to report on the reasons you failed to reach an agreement. If you fail, your dispute will then go to the next stage in the dispute resolution process under the law. This will either be to an arbitrator or a court of law, depending on the nature of your dispute.

Let us now proceed to our discussions.'

- Try not to read your 'Conciliator's Speech.' Look at the parties while you are talking and try to be as informal as possible. Keep it short. It should take no more than 2 or 3 minutes.
- After your 'Conciliator's Speech' ask the disputing parties if they have any questions about your role or the procedures to be followed.

Conciliation procedures

- Make clear the procedural arrangements before the disputing parties start to present their cases.
- Indicate that the complainant will speak first (unless it is a case of wrongful dismissal when the employer would go first.)
- Indicate that although you are an impartial conciliator, you will offer advice to both parties if you think this is helpful.
- Indicate that one person from either side should assume the role of spokesperson, but with the right to call on other members of the same party to provide additional advice if required.
- The Act provides for the disputing parties to be represented (with power of attorney) if they wish. This may be a lawyer but could be any person either party

thinks can assist them in presenting and arguing their case. If the representative is a lawyer, as conciliator you may need to ensure that the lawyer does not make speeches, and focuses exclusively on the issues under dispute. Remind any lawyers present that this is not a court of law!

- Indicate that you are not an advocate for either side but that you will ask questions to either party if you consider this will assist the conciliation process.
- Indicate that you will call for an adjournment to allow the parties to reconsider their positions if you think this will improve the prospects of reaching an agreement.
- Indicate that you may wish to speak to either party alone if you think this might improve the prospects of reaching an agreement.
- Indicate that we are here to discuss issues, not individual personalities.
- Indicate that you expect the parties to respect the conciliation process as provided by law and that you will not tolerate behaviour that shows a lack of respect and common courtesy.
- Remind the parties throughout the conciliation process of the limitations of your power – that you are a conciliator, not an arbitrator or judge.
- Indicate that the discussions will be confined exclusively to the matters under dispute. No other matters will be considered.
- Gently remind the parties throughout the discussion of the benefits of conciliation and the consequences of failure to reach agreement. (If the dispute goes to arbitration or a court it will take longer to resolve and the parties lose control because the final decision is out of their hands.)

Interacting with the parties during the conciliation

- Ask the complainant to speak first, without interruption. Ask the respondent to reply, also without interruption. Indicate that the opening remarks should be brief.
- Allow the parties to ask questions and make counter statements.
- Your role as conciliator at this stage is that of independent chairperson. Be even-handed and allow both parties the opportunity to speak. Keep the discussion focused on the issues under dispute.
- Even though you are in the position of chairperson you are allowed to ask questions. Keep them brief and without accusation.
- You will need to take notes but not let your note-making dominate proceedings. You could use different colored pens for each party, or divide your note book pages in half to clearly record the arguments and position of each party. Do not rely on your memory.
- Call for adjournments during the conciliation if you think this will be helpful. For example, if the discussion becomes too heated or emotional you can decide on an adjournment.
- Conduct separate meetings with the respective parties. You may need to act as a messenger by taking proposals from one party to another. Make sure you communicate proposals exactly as stated by either party.
- Keep reminding the parties that it is *their* dispute. You are not a party to the dispute but are present to help them resolve *their* problems and help them to reach *their* agreement.

- As the discussions proceed, you should encourage the parties to consider options that meet the needs of both sides (win/win). You should assist the parties to assess the costs and benefits of each option.
- You can make proposals and suggestions for the parties to consider as a way of resolving the dispute. This must be done very carefully. You must make it clear that these are suggestions only, and that you are not imposing any solutions.

Final bargaining

- Once the parties show a willingness to change their position and make concessions, your task is to bring them closer together step-by-step. This is a process of incremental convergence through a series of gradual steps. Be patient.
- If the conciliation is successful make a record of what has been agreed. Check to see that the agreement covers all the issues under dispute and leaves no possibility for misinterpretation.
- Identify with the parties what has to be done by whom to make the agreement operational.
- If the conciliation is not successful or only partly successful make a record of why it failed.

Closing the conciliation

- Thank the parties for their cooperation.
- Indicate what you will do next. If the conciliation has been successful, indicate that you are required under S.199 of the Act to submit a report to the Chief Labour

Administrator indicating how the dispute was resolved and provide a record of agreement signed by the parties.

- If the conciliation was successful, indicate to the parties that the CLA will need to check the agreement to see that it complies with the Act and is legally enforceable. If the CLA decides that the agreement complies with the Act it will be valid and enforceable. If the CLA decides the agreement does not comply with the Act, the CLA will send it back for further discussion and to see if the parties agree to amend their original agreement.
- If the conciliation has not been successful indicate to the parties that you are required to submit a report to the Chief Labour Administrator indicating the reasons it has not been resolved.
- Indicate that an unresolved interest dispute will be submitted to an arbitrator for decision, and that an unresolved rights dispute will be submitted to a court.

Reporting and follow up

Preparing your report

You are required to submit your report on the conciliation outcomes within 4 days of completing the conciliation. If the dispute has been successfully resolved you are required to present a report to the CLA that includes:

- The names of the parties to the dispute
- The issues in the dispute
- How the dispute was resolved
- A record of the agreement reached
- The signature of the parties indicating their free acceptance of the agreement

If your report indicates that the dispute was successfully resolved the CLA will then check to see that it is in compliance with the Act. If the CLA concludes that the agreement is in compliance, the CLA will then certify this in writing and notify the conciliator and the parties. The record of agreement will then be binding on the parties.

If the CLA concludes that the agreement is not in compliance with the Act, your work as conciliator may not be over. The CLA will advise the conciliator and the parties that their agreement is not in compliance, indicating where the agreement fails to comply. The parties then have 3 working days to amend their agreement to ensure it complies with the Act, and may call on the conciliator to assist in this process. If the parties agree to amend their agreement they must then resubmit their agreement for the approval of the CLA. If they fail to agree to amend the agreement they must notify the CLA in writing of their failure to agree. The CLA will then, depending on the type of dispute, notify whether their dispute will be submitted to an arbitrator or the court.

If the dispute has not been resolved you are required to present a report to the CLA that includes:

- The names of the parties to the dispute
- The issues in the dispute
- Reasons why, in your opinion, the dispute was not resolved.

The CLA will then direct the parties to submit their case for arbitration or to take it to court. If it is an interest dispute, meaning one concerned with future benefits, the CLA will direct that the dispute be taken to an arbitrator appointed by the CLA. If the dispute is a rights dispute, meaning one concerned with an existing right or benefit, the CLA will direct that the dispute be taken to a court of law.

Conciliation Skills and Techniques

Successful conciliation is very much related to the knowledge, skills and personal attributes of the conciliator.

Knowledge

- Knowledge of the nature of labour relations and of the interactions that take place between employees and employers.
- Knowledge of the Labour Act and its regulations (but it is not necessary to be a lawyer).
- Knowledge of working conditions and the working environment in a variety of work situations.
- Knowledge of the negotiation and bargaining processes.
- Knowledge of the financial and economic operations of enterprises (but it is not necessary to be an accountant or an economist).
- Knowledge of the nature and purpose of job descriptions.
- Knowledge of the way in which people interact (but it is not necessary to be a psychologist).

Skills

The ability to listen

- Concentrate on what others are saying
- Look at others while they are talking
- Summarize important points in your mind
- Don't interrupt
- Take brief notes if necessary
- Don't show irritation, boredom or impatience

The ability to ask questions

- Ask questions to :
 - obtain information
 - challenge statements and assertions
 - check on your understanding of things
 - show interest in what a person is saying
 - suggest solutions
- Ask 'open' questions, meaning questions that cannot be answered 'yes' or 'no' but require an extended response
- Do not ask several or multiple questions in the one sentence.
- Do not use judgmental words in your questions
- Avoid asking leading questions (meaning ones in which you imply an answer)

The ability to communicate

- Speak clearly. Do not leave room for misinterpretations.
- Avoid using technical language unless you are sure it will be understood.
- Concentrate on communicating meanings, not just words.
- Be aware of your body language including hand movements, posture, and facial expressions.
- Maintain eye contact with the person you are talking to.
- Encourage others to speak, particularly those who lack confidence.

The ability to observe:

- Observe the body language of others when they are speaking.
- Observe the reaction of others to what you say.

- Be aware of signs of tension developing.
- Do not react impulsively to what you observe.

The ability to summarize

- Regularly summarize in your own words the things both parties have said
- Emphasize the positive aspects in your summaries, particularly things that might lead to a solution of the problem
- Use neutral language in your summaries
- Invite the parties to correct you if you have summarized incorrectly
- Make use of the word 'we'. 'From what I understand from what you have said, this is what we have agreed.'

Personal qualities:

- Honesty
- Impartiality
- Punctuality
- Patience
- Humor

Some conciliation techniques

- Separate the people from the problem. You are conciliating on an issue, not conciliating people! Even if you do not like one, or some, or all, of the parties involved focus on the issues not the people.
- Take notes and avoid attributing messages and statements to the wrong parties. Use different colour pens for the messages and statements of each party.

- Be a messenger. Carry messages from one party to the other. Make sure you convey the correct messages as stated by the parties, not your own messages.
- Be a 'devil's advocate' by encouraging the parties to rethink the strengths of their positions. Ask probing and challenging questions to achieve this.
- Refer to the 'chamber of horrors' by confronting the parties with the possible outcomes (whether economic, social, legal, political) of their positions.

*What will you do if this case has to go to court?
What are the implications of this case for your shareholders?*

- You can keep changing your role from educator, to messenger, to resource person, to facilitator, to chairperson, to analyzer, to focuser, and more. You are all of these things and you may need to change from one to the other quite quickly.

Negotiation

As a labour relations officer you will not normally find yourself actually negotiating with employers and workers, but it is likely that you will have to explain to them what negotiation means and how it is actually done.

If you are appointed as a conciliator in a labour dispute, you will need to know how negotiation works because as a conciliator you are really extending the negotiation process by helping the disputing parties reach an agreement acceptable to them.

What is negotiation?

Negotiation is a process in which two or more parties who has both a common and conflicting interest come together and talk, with a view to reaching an agreement. The common interest in labour relations is production; the conflicting interest is the sharing of the proceeds of that production. The conflicting interest creates the need to negotiate; the common interest provides the means to reach an agreement.

Consider purchasing a pair of shoes in a market. What is the common interest? What is the conflicting interest? If both elements are present there is scope for negotiation, if both parties are willing to do so.

Negotiation is the very basis of the bargaining process. Once workers' associations are established and operating it is expected that they will bargain with their employers with regard to working conditions and the working environment. Both the leaders of the association and employers will need to know how to negotiate if the bargaining process is to be beneficial for both parties.

Stages of negotiation

In formal negotiation there are four stages, as follows:

- Preparation
- Discussion
- Bargaining
- Closure and agreement

Preparation

In the preparation stage the parties set their objectives. Typically three levels of objectives are set.

*The first level is the **ideal** and it represents what we would like to achieve. This would be the best possible result.*

*The second level is the **target** and is a more realistic objective of what is likely to be achieved. This would be an acceptable outcome, although something less than the ideal.*

*The third level is the **resistance point**. This is the 'bottom line' and represents the amount below which a person is not prepared to go. An outcome that requires you to accept less than your resistance is a 'lose-win' situation. You lose and the other party wins.*

Both parties to a negotiation set objectives. If these objectives are unrealistic the gap or distance between the parties will be great and there will be no chance of reaching an agreement. If a seller wants Nu 40000 for a car and you offer Nu 10000 there is a very wide gap. Your objectives are very far apart and the chance of reaching an agreement is very remote.

Discussion

Once discussions commence, the **ambit** or scope of the negotiation will become clear. In the discussion stage there is no actual bargaining. The parties' present arguments, ask questions, provide information and, generally, assess each other's strengths and weaknesses. They test their ideal positions and start to think about compromises.

Bargaining

In this stage the parties start to make proposals and counter-proposals. They show that they are willing to move from their original positions and try to find common ground. You may not reach your ideal position but provided neither party has to go beyond its resistance point the negotiation can be successful.

Closure and agreement

At this stage, the parties are now working together to finalize the agreement. The positions change from 'them' and 'us' to 'we.' Once they finally reach an agreement, the details of this have to be recorded and checked by the parties.

In practice, negotiation is not always successful. Negotiations can breakdown and become deadlocked. In such cases, it is possible that a formal dispute will be notified to the Chief Labour Administrator.

If negotiation and bargaining are to be successful in resolving disputes, the parties must:

- be willing to move their positions (meaning they must be prepared to make concessions).
- act in good faith (meaning they must really try to reach an agreement)
- focus on the issues, not the people. (The other party is not an 'enemy.')
- consider the possible consequences of failure (strike or lockout, and the losses and problems associated with each).
- keep the common interest in mind.

Problem Solving and Decision Making

In our work as LRO, problems arise every day. Some of these problems are minor, others are serious. But all of them have to be resolved. Even if a problem is small, it may soon become large and major if it is not resolved quickly. If problems are solved, we can work in harmony; if they are not we will lack trust and not work well with other people.

There is a difference between **resolving** and **settling** problems. If a problem is resolved it means that we have found a solution acceptable to all affected parties. This is different from **settling** problems by imposing a solution and hoping it will work.

System and Dialogue

System means that there is a procedure to resolve problems, a step-by-step approach ranging from problem identification, problem analysis, considering alternatives, and then selecting the best alternative.

Dialogue means discussion, consultation, talking and listening, to ensure that an acceptable and lasting solution is found and that similar problems are prevented from arising in future.

Solving problems

Step 1: Problem identification

What is the problem? We cannot solve a problem if we do not know what it is. Identifying a problem requires the collection of information, the collection of facts and ideas. The emphasis should be on the collection of facts or things that can be verified by observation or evidence.

A worker is dismissed for involvement in the activities of a workers' association. This is difficult to verify. An interview with the worker may confirm that involvement in the workers' association was the real reason for dismissal. An interview with management could verify the fact of dismissal, but not necessarily the reason. Management may suggest another reason for the dismissal, such as poor work performance. In this case the dismissal is a fact, verified by interviews. The cause of the dismissal has not been verified and will take further investigation.

A group of workers sit on the floor and refuse to work because of management demanding they work overtime. The work stoppage and its reason can be verified by observation, interview and written reports.

In identifying problems it is necessary to try to go beyond the surface. We must make every effort to identify the **real** problem.

For example, workers stop work claiming they want higher wages. Further investigation may reveal that the real reason for the work stoppage is the unacceptable behavior of the supervisor (bad language, rude comments.)

For example, workers may stop work in support of a worker who has had an accident that the workers believe is due to a faulty machine. Further investigation shows that the machine was not at fault, but that the worker was under the influence of drugs.

Have you ever solved the 'wrong' problem? This means that you solved a problem but due to poor problem identification, you ended up solving the wrong problem!

Step 2: Problem analysis

Once a problem has been identified, it has to be analyzed. This means it has to be broken down into its component parts, or a number of sub-problems. What issues does the problem give rise to?

Consider a situation in which there is a dispute over the future level of wages. Negotiations become deadlocked and the workers stop work in support of their claim.

In analyzing this problem and breaking it into parts we find out that there is a difference between the problem and its symptoms. The work stoppage is not the problem, it is a **symptom** of some deeper problem – conflict between workers and management. If we concentrate on the symptom we can see that:

- The workers have stopped work
- The workers are not being paid
- No goods are being produced
- The enterprise's stock levels are getting low
- Obligations to customers are not being met
- The stoppage is bringing criticism from the general public.

If we focus on the problem rather than the symptoms we need to find out more about the nature of the conflict between the workers and the management.

It is necessary to analyze both the symptoms and the problem. The solution, however, will be found by focusing on the problem, not the symptoms. Analyzing the work stoppage itself may **settle** the problem, but not **resolve** it.

Step 3: Consider the options

In problem solving it is necessary to consider alternative solutions before making a final decision. It is also necessary to consider the **consequences** of each alternative.

For example, if the problem is related to a deadlock between workers and management over a future wage claim, what are the options for the workers?

The workers could reduce their demands. The consequence of this might be:

- The work stoppage is ended;
- The workers lose confidence in the leaders of their workers' association; or
- Relations with management might improve.

What are the options for management? Management could increase its offer. The consequences of this option might be:

- Accusations of weakness;
- The work stoppage ends; or
- Enterprise profits may decline.

The workers association and management could agree that they cannot solve the deadlock by themselves. The consequences could be:

- A loss of faith in negotiation as a means of resolving conflict
- Accusations of weakness against both parties for not being able to solve their own problems

- The appointment of a third person to either resolve or settle the problem

Examining the options requires a willingness to do some **lateral thinking** – to be creative and innovative in generating the options. This can extend the range of options rather than limit it to one or two more obvious alternatives.

Step 4 Making a decision

Once all alternatives/options have been considered, a decision can be taken. The decision may be one of the alternatives or a combination.

For example, the workers' association may decide to:

- Call off the strike, and
- Explain the reason to its members
- Submit a new claim to be considered in 6 months
- Take other action to put pressure on the enterprise.

For example, the management may decide to

- Meet the workers' association demand
- Make this conditional on no further industrial action for 6 months
- Demand productivity increases before any additional claims will be considered.

Stress that once decisions have been made they must be implemented. The problem solving process in a logical sequence of:

- Facts
- Analysis
- Options
- Decision

You can apply this sequence to a particular problem – any problem at all. For example, apply it to the following:

- Excessive littering in a city
- A football team that is always losing
- A motor car that is always breaking down.
- A husband and wife who constantly argue.

You can apply the same sequence to problems we encounter in labour relations.

- An increasing level of absenteeism
- Decreasing labour productivity
- Increased labour turnover
- Reduced bonus payments
- Late payment of wages
- Forced overtime

Lateral thinking

Sometimes the alternatives/options for the solution of a problem are fairly obvious and it can be decided by 'standard' thinking.

For example, children in a village are being hurt by falling coconuts. Standard thinking would tell us to keep the children away from the coconut trees or, alternatively, remove the trees.

*Lateral thinking means bringing innovation and creativity to the decision-making process. What **lateral thinking** solutions might apply to the problem of falling coconuts?*

In labour relations lateral and innovative thinking is required by both parties in the solution of problems. For example, in labour relations management must think beyond “lazy workers” as the cause of problems and, thus, see solutions as something more than imposing sanctions on laziness. Workers must think beyond “poor management” as the cause of problems and, thus, see solutions as something more than refusing to cooperate because of management’s shortcomings. Both parties must generate different solutions, with more creativity and innovation.

Chapter 6

Internal Service Rules

Abstract

The Labour Relations Division, under Department of Labour, Ministry of Labour and Human Resources, focuses primarily on creating a harmonious working environment in the private and corporate sectors. The task is achieved through reviewing and endorsing the Internal Service Rules of the private and corporate sectors in line with the provisions laid down in the Act and its regulations.

Internal Service Rules (ISR)

The set of rules required to be framed by all the enterprises covered by section 76 of the Act and that comes under inspectorial jurisdiction of the Department of Labour, Ministry of Labour and Human Resources.

Why company need ISR?

Protection of rights of the employees with regards to:

- Terms and conditions under which they are employed including wages, hours of work, allowances, leave and other benefits;
- Rights and obligations known to both the parties.

Who should have ISR?

- A registered company under the Companies Act of Bhutan 2016; or
- A small, medium or large scale industry; or
- Enterprise employing five (5) or more employees under contract of employment/regular employees.

How to frame ISR?

- Internal Service Rules shall be framed as per the Regulation on Internal Service Rules.
- Consultation with the workers association or if there is no association, with the employees at the enterprise while framing the internal service rules.
- Employer shall refer model internal service rules as reference.

Procedure for ISR endorsement:

Step 1: Receipt of Draft Internal Service Rules:

- Any officials receiving the draft Internal Service Rules shall update the receipts date in the system.

Step 2: Review

- From the date of receipt of draft Internal Service Rules, within 21 Working days the dealing official shall review the it and forward to the concerned enterprise.
- If there are any comments from the Department on the first review of Internal Service Rules, the enterprise shall rectify the shortcomings and resubmitted within 14 working days.

Step 3: Endorsement

- For the endorsement employer/enterprise should submit the final copy in two sets. The documents must be duly dated and signed by the employer or his/her designated representative and 3 employees (below supervisory level) on each page of your Internal Service Rules(with their name, designation and CID no.).

- Once assured that the enterprises has incorporated the comments, the concerned official shall prepare the check list and forward to Chief Labour Officer for further verification and signature.
- The Chief Labour Officer has once verified the Internal Service Rules, concerned officials shall draft letter of endorsement and the certificate and submit to Chief Labour Administrator for endorsement.

Step 4: Certification

- The employer/HR manager/CEO of the enterprise shall be called personally to the Department and the Chief Labour Administrator shall award the certificate formally.

SECTION 4

SOCIAL PROTECTION DIVISION

Chapter 1

Purpose and Nature of Social Protection

As a labour officer it is essential that you understand the underlying purpose of your work in social protection. Social protection while similar to social security is mainly concerned with social assistance and social insurance. Social protection for workers ensures their financial security and compensation in the aftermath of accidents at the workplace/worksite.

Social Protection is concerned with the protection of workers with regard to: The conditions under which they are employed including wages, their compensation in case of death or disablement and their benefits upon separating from their place of employment or retirement/superannuation.

Explaining Your Work to Others

In explaining the purpose of Social Protection to employers, workers and others, you should make reference to the following:

- The meaning of Social Protection in the context of labour administration
- The relevant legal provisions already laid out above.

Functions of Social Protection

In order to 'prevent, protect, and improve' there are specific things the Labour Officer must do. These functions are established by law, under the Act:

- Advise, inform, and educate employers and employees on their legal rights and obligations under the Act and its Regulations. You should note that your functions relate to both employers and employees and includes giving information, advice and guidance on the content of the law.
- This means that you are required to explain to employers and employees the meaning of the law, and advise them how to comply with the law's requirements.

Confidentiality

As a Labour Officer you will sometimes be aware of information that is private and not to be the subject of gossip. Information regarding individuals and their health or other aspects or personal details are not to be shared outside of the office.

Names and other personal information are to be kept in the strictest confidence by the Labour Officer.

Conflict of Interest

As a Labour Officer you are not permitted to inspect any enterprise or workplace where you have some direct interest. If, for example, a business is owned by your family, or you are a part owner yourself, you must declare your interest and disqualify yourself from taking part in the case or any type of inspection.

Handling Compensation Cases

As a Labour Officer you are not required to handle labour disputes. This will be done by labour relations officers.

You will however, have to handle cases where compensation is to be paid or benefits provided to the identified person.

You will need to demonstrate patience and understanding while discussing the details of the compensation case with the parties involved.

Always be sure to collect all pertinent information that may have been left out of the initial report including all concerned names, locations of accidents, insurance details, etc.

SECTION 5

FOREIGN WORKERS DIVISION

Chapter 1

Purpose and Nature

Introduction

As a labour officer it is important that you should understand the underlying purposes of your work in the Foreign Worker Division. The core mandate of the division is to assess the need of foreign workers and accord the approval accordingly ensuring that both the employers and foreign workers abide by the provisions of the Act and regulations thereof.

Foreign Worker Division is concerned with recruitment and management of foreign workers where bhutanese are not available and not willing to work.

Foreign Worker Division is concerned with:

- Timely approval of foreign workers;
- Management of foreign workers and FWRAs; and
- To study the labour market situations.

Explaining Your Work to Others

While explaining the mandate of Foreign Worker Division to the employers, foreign workers, and FWRAs, you should make reference to the following:

- Labour and Employment Act of Bhutan, 2007 and its related regulations;
- The Regulation on recruitment of Foreign Workers Recruitment Agents 2016;

- The Guidelines for Selection of Foreign Workers Recruitment Agent; and
- The Handbook for Recruitment and Employment of Foreign Workers.

Functions of Foreign Worker Division

Foreign Worker Division is mainly responsible for assessing the need of the foreign workers in the country and providing approval accordingly. Specific functions of the division are as follows:

- Review applications for foreign workers and accord approval to recruit and employ foreign workers in line with the policies, norms and rules and regulations;
- Monitor proper utilization of foreign workers by employers;
- Ensure repatriation of foreign workers when validity of work permits expire;
- Ensure that foreign workers receive equal treatment;
- Ensure that every foreigner who is working in the country possesses valid work permit;
- Ensure that both employers and foreign workers abide by other provisions of the Labour and Employment Act, 2007 and its Rules and Regulations;
- Monitor the performance of Foreign Workers Recruitment Agents/SoE and strengthen them through supervision, inspection and training;
- Recommend revision/changes in the foreign workers policies, rules and regulations and recruitment procedures;
- Liaise with Department of Immigration on issues related to management of foreign workers;

- Assess the need for foreign workers and recommend to the government from time to time for quotas for:
 - (a) The maximum number of foreigners who may work in the Kingdom,
 - (b) The maximum number of foreigners who may work in specified industries, occupations or both in the Kingdom, and
 - (c) Propose closure of occupations to foreigners that can easily be taken up by Bhutanese.

- Ensure that the Labour Net functions smoothly 24 hours a day and 7 days a week;
- Generate reports on foreign workers as and when required by the Department, Ministry and Government;
- Ensure that the foreign workers database and information is secure and is not made accessible to unauthorized persons; and
- Continuously review the capacity and functioning of the Labour Net and suggest remedial measures.

Chapter 2

Responsibilities and Obligation

Confidentiality

As a Labour Officer you will sometimes be aware of information that is private and not to be the subject of gossip. Information regarding user-credentials of the employer and other personal details of the employers are not to be shared outside of the office.

Conflict of Interest

As a labour officer you are not permitted to approve any applications or conduct site verification inspection where you have direct conflict of interest, you must declare the conflict of interest.

Handling Foreign Workers Issues

Labour Officer should demonstrate patience and understanding while discussing the details of the issues related to foreign workers and assure to collect all pertinent information to resolve the issues:

- The issues related to invalid cases will be directed to immigration;
- The issues to related to approval of foreign workers which is beyond the authority of the approving officers should be forwarded to Labour Recruitment Committee (LRC);
- The grievance related to working conditions should be forwarded to Labour Relation Division and Social Protection Division; and
- The issues related to occupational health and safety should be forward to Labour Protection Division.

Chapter 3

Approval of Foreign Foreign Workers

Types of application

- ***Fresh Applications*** – The approval accorded for the entry of foreign workers for the first time for the particular workplace/location based on valid work order.
- ***Additional Applications*** – The approval accorded for additional foreign workers to employers for the same workplace/location.
- ***Renewal Applications*** – The approval accorded for the extension of the work permits upon the expiry of the work permit validity.
- ***Redeployment Application*** – The approval accorded to foreign workers having valid work permit from different work site with undertaking letter signed by both the relieving and receiving employers.

Required Documents

- Trade License Copy
- CDB License Copy
- Construction approval/Work order from the concern agency.
- Construction approval from Gewog, Dungkhag, Dzongkhag and Thromde Office.
- TCB Clearance for the construction of star rated hotels
- Notarized certificate for the professional categories.
- Valid voter cards and passports
- Duly filled employer undertaking form
- Requisitions from the Employer

Approving Procedure

- The Labour officer must have an user credentials to access the MoLHR-Management Information System (MoLHR-MIS)
- Login to the MoLHR-MIS using the User ID and Password
- Claim the application from the Group Task.
- The Labour Officer will view the application and verify the documents attached
- The labour officer will approve/reject the applications based on the verification within given TAT.
- The applications which require consent will be forwarded to LRC/CLA for further directives if required.
- The application status will be notified via SMS to respective employers/FWRAs.

Approving Criteria for construction

Government Award Project

If it is for execution of government project Amount (actual cost of contract) x 30% (labour cost) = X _____ X _____ = Y Duration (No. of days) _____ Y _____ = Z (No. of foreign workers) 100age rate) x 2

Private Construction

If it is for personal residential building construction 5-25 foreign workers will be allotted depending on the total square feet of construction as certified by an engineer.

Institutions/ commercial Building

If it is for construction of an institution such as school or commercial building such as shops and hotels or for the purpose of renting out

The employer is encouraged to contract out such construction to private construction companies in which case the company will be entitled to number of foreign workers as in the case of government projects.

Should you decide to execute the construction yourself, you can do so with the maximum of 12 foreign workers you will be entitled to foreign Workers for private house construction in rural areas The Ministry has decided to sanction foreign workers in rural areas under the following conditions:

- Permit a maximum of ten foreign workers for construction of private house in rural areas using only modern construction materials (RCC structures). Such building plans must invariably be approved by the concerned Dzongkhags authorities.
- Within the above ceiling, the choice of what skills of foreign workers to import will be given to the concerned applicant, and the period for such workers shall not exceed 6 months.
- In administration of foreign workers, employers and other agencies shall strictly abide by their respective roles and responsibilities.

Chapter 4

Site Inspection Procedure

The FWD being the approving authority of the foreign workers, the division is mandated to conduct the following supervision and monitoring at the worksites. The purpose of the Site Inspections is as follows:

- To determine the eligibility of foreign workers
- Mis-used of work permits
- To verify the nature, type and scope of the constructions.
- When employer request for additional number of foreign workers (Form 23)
- To draw the undertaking with the employer upon the requisition submitted the employer for the approval of relaxed close categories.

Forms

Form 1: Registration of Workplace

Date:

Application for: Registration Re- registration

1. Details of Enterprise/Workplace

- a. Name of enterprise/workplace:.....
- b. Trade license No.:
- c. CBD license No. (construction only):.....
- d. Nature of business:
- e. Date of commencement of business:
- f. Location:
 Dzongkhag..... Dungkhag.....
 Gewog.....
 exact location.....

2. Contact person

| | | | |
|-----------------------|--|--------------|--|
| Name: | | Designation: | |
| Telephone/mobile No.: | | Fax No.: | |
| Email: | | PO box No.: | |

3. Number of employees

| Type of Employee | (Temporary) | | (Regular) | | Below 15 years | Below 18 years |
|-------------------|-------------|--------|-----------|--------|----------------|----------------|
| | Male | Female | Male | Female | | |
| Bhutanese | | | | | | |
| Foreign Employees | | | | | | |
| Total | | | | | | |

4. Technical information

| Machinery and equipment or other devices. example: boiler; pressure vessel; internal combustion engine diesel, gasoline, etc.. | Material handling equipment and devices: example: hand trucks, power trucks, conveyors, etc.. | Chemicals or substances used |
|--|---|------------------------------|
| 1. | 1. | 1. |
| 2. | 2. | 2. |
| 3. | 3. | 3. |

(Note: Additional sheet may be used if required)

5. If branch unit, name of parent workplace:

Dzongkhag.....

Dungkhag..... Gewog.....

exact location.....

I hereby certify that the above information is true and correct. If any information is found to be incorrect, I shall be liable for penalty as per the Regulation on Working Conditions, 2022.

Owner/Manager

Date:

Official use only

Received and Approved

Director, Department of Labour, MoLHR

Date:

Form 2: Information regarding Closure of Unit/ Establishment/ Workplace

1. Name of the unit/Estt/Workplace:
2. Address of the Workplace:
3. Registration No.:
4. Date of closure:
5. Probable period of closure:
6. Reason of closure:
7. Nature of closure:
8. Date of re-opening:
9. No. of Employees on roll of workplace:
10. No. of working days in which the unit remained closed during the month:
11. No. of persons likely to be affected/unaffected by the closure:
12. Rate of compensation and/or benefits if any, paid to remaining employees due to the closure:

Dated:

Name and signature of employer

Form 3: Establishment of Health and Safety Committee

1. Enterprise:

Address

Tel: Fax: e-mail.....

2. Nature of Business:

3. Number of Employees:

4. Composition of Health and Safety Committee

Chairperson:

Members:

.....

.....

.....

Secretary:

Establishment Date:

I hereby certify that the above particulars are true and correct to the best of my knowledge.

Name & Signature of Employer

Date

Form 4: Report of Examination of Pressure Vessel

1. Name of workplace proprietor/owner:
 2. Situation and address of workplace:
 3. Particulars of vessel:
 - a. Name, description and distinctive number of pressure vessel:
 - b. Name and address of manufacturer:
 - c. Nature of process in which it is used:
 - d. Date of installation:
 - e. Thickness of walls:
 - f. Date on which the vessel was first put into use:
 - g. Safe working pressure recommended by the manufacturer:
 - h. The history should be briefly given, and the examiner should state whether he has seen the last previous report:
 4. Date of last hydraulic test (if any) and pressure applied:
 5. Is the vessel in open, or otherwise exposed to weather or to damp:
 6. What examination and tests were made? (specify pressure if hydraulic test was carried out.)
 7. Condition of vessel (State any defects materially affecting the safe working pressure or the safe working of the vessel).
- External
- Internal
8. Are the required fittings and appliances provided in accordance with the rules of pressure vessels?

9. Are all fittings and appliances properly maintained and in good condition?
10. Repairs (if any) required, and period within which they should be executed and any other condition which the person making the examination thinks is necessary to specify for acquiring its safe working conditions
11. Safe working pressure, calculated from dimensions and from the thickness and other data ascertained by the present examination, due allowance being made for conditions of working if unusual or exceptionally severe (State minimum thickness of walls measure during the examination)
12. Where repairs affecting the safe working pressure are required, state the working pressure:
 - i. Before the expiration of the period;
 - j. After the expiration of such period if the required repairs have not been completed;
 - k. After the completion of the required repairs.
13. Other observations

I certify that on..... the pressure vessel described above was thoroughly cleaned and (so far as its construction permits) made accessible for thorough examination and for such tests as were necessary for thorough examination and that on the said date, I thoroughly examined this pressure vessel including its fittings, and that the above is a true report of my examination.

Signature.....

Qualification

Address.....

Date:.....

If employed by a Company or Association, give name and address

Form 5: Report of Examination of Hoist or Lift Installed at a Workplace

1. Address:

2. (a) Type of hoist or lift and Identification number or description.

(b) Date of construction or re-construction (if ascertainable).

3. Design and construction
Are all parts of the hoist or lift of good mechanical construction sound material and adequate strength (so as ascertainable)?

4. Maintenance
Are the following parts of the hoist or lift properly maintained and in good working order, if not, state what defects have been found:
 - a. Enclosure of hoist way or lift way
 - b. Landing gates and cage gate(s)
 - c. Interlocks on the landing gates and cage gate(s)
 - d. Other gates fastenings
 - e. Cage and platform and fittings guides, buffers, interior of the hoist way or lift way
 - f. Over-running devices
 - g. Suspension ropes or chain and their attachments
 - h. Safety gear, i.e. arrangements for preventing fall of platform or cage brakes
 - i. Brakes
 - j. Worm or super gearing
 - k. Other electrical equipment
 - l. Other parts

5. What parts (if any were) inaccessible?

6. Repairs, renewals or alternations (if any) required and the period with which they should be executed.

7. Maximum safe working load subject to repairs, renewals or alterations (if any) specified in (5).

8. Others

I/we verify that on I/We thoroughly examined this hoist of life and that above is correct report of the result.

Signature.....

Counter signature.....

If employed by a company or association give names and address

Qualification

Address

Date

Date.....

Note : Details of any repairs, renewal or alterations required should be given in 5 above.

Form 6: Notice of Dangerous Occurrence which does not Result in Death or Bodily Injury

Note : To be completed in legible handwriting or preferably typewritten.

1. Name of the Enterprise/Workplace:
2. Address:
3. Name of the Employer:
4. Name of the Manager:
5. Nature of Industry/Enterprise:
6. Branch or Department and exact place where the dangerous occurrence took place:.....
7. Date and Hour of occurrence:
8. Nature of dangerous occurrence: (State exactly what happened. Use additional sheets)

I certify that, to the best of knowledge and belief the above particulars are correct in every respect.

Signature of the Employer/Manager

Date of dispatch of Report

(This space to be completed by Labour Inspector)

Date of receipt:

Date of Investigation:

Result of Investigation:

Form 7: Register of Accidents and Dangerous Occurrences

| Name of injured person (if any) | Date of accident or dangerous occurrence | Date of report (in Form 6 and 8) to Labour Inspector | Nature of accident or dangerous occurrence | Date of return of injured person to work | No. of days Injured person was absent from work |
|--|---|---|---|---|--|
| | | | | | |

Form 8: Workplace Injury and Disease Reporting and Recording Form

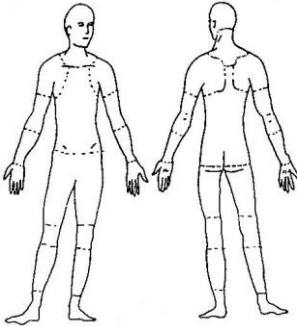
Reference number:

1. Name of the Enterprise/workplace:
2. Nature of Business:
3. Contact person:
4. Address/ Location:
Tel: Fax:
E-mail:
5. Incident Investigation

Instructions: Complete this form as soon as possible after an incident that results in serious injury or illness. (Optional: Use to investigate a minor injury or near miss that could have resulted in a serious injury or illness.) Individual incident investigation form should be filled up for every person involved in incident or accident.

| | |
|---|--|
| This is a report of a: | |
| <input type="checkbox"/> Death | <input type="checkbox"/> Lost Time |
| <input type="checkbox"/> First Aid Only | <input type="checkbox"/> Dangerous Occurrence |
| <input type="checkbox"/> Injury | <input type="checkbox"/> Occupational Diseases |
| Date of incident: | |
| This report is made by: | |
| <input type="checkbox"/> Safety Officer | <input type="checkbox"/> Employee |
| <input type="checkbox"/> Supervisor | <input type="checkbox"/> Others |

Step 1: Injured employee (complete this part for each injured employee)

| | | |
|--|--|--|
| Name: | Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female | Age: |
| Department: | Job title at time of incident: | |
| <p>Part of body affected: (shade all that apply)</p>  | <p>Nature of injury: (most serious one)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Abrasion, scrapes <input type="checkbox"/> Amputation <input type="checkbox"/> Broken bone <input type="checkbox"/> Bruise <input type="checkbox"/> Burn (heat) <input type="checkbox"/> Burn (chemical) <input type="checkbox"/> Concussion (to the head) <input type="checkbox"/> Crushing Injury <input type="checkbox"/> Cut, laceration, puncture <input type="checkbox"/> Hernia <input type="checkbox"/> Illness <input type="checkbox"/> Sprain, strain <input type="checkbox"/> Damage to a body system: <input type="checkbox"/> Others: | <p>This employee works:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Regular <input type="checkbox"/> Contract <input type="checkbox"/> On the job training <input type="checkbox"/> Temporary <hr/> <p>Months with this employer:</p> <p>Months doing this job:</p> |

Step 2: Describe the incident

| | |
|--|-------------|
| Exact location of the incident: | Exact time: |
| <p>What part of employee's workday?</p> <ul style="list-style-type: none"><input type="checkbox"/> Entering or leaving work<input type="checkbox"/> Doing normal work activities<input type="checkbox"/> During meal period<input type="checkbox"/> During break<input type="checkbox"/> Working overtime<input type="checkbox"/> Other _____ | |
| Names of witnesses (if any): | |
| What personal protective equipment was being used (if any)? | |

Step 3: Why did the incident happen?

| | | |
|---|--|-----------------------------|
| <p>Unsafe workplace conditions: (Check all that apply)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Inadequate guard <input type="checkbox"/> Unguarded hazard <input type="checkbox"/> Safety device is defective <input type="checkbox"/> Tool or equipment defective <input type="checkbox"/> Workstation layout is hazardous <input type="checkbox"/> Unsafe lighting <input type="checkbox"/> Unsafe ventilation <input type="checkbox"/> Lack of needed personal protective equipment <input type="checkbox"/> Lack of appropriate equipment / tools <input type="checkbox"/> Unsafe clothing <input type="checkbox"/> No training or insufficient training <input type="checkbox"/> Others: | <p>Unsafe acts by people: (Check all that apply)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Operating without permission <input type="checkbox"/> Operating at unsafe speed <input type="checkbox"/> Servicing equipment that has power to it <input type="checkbox"/> Making a safety device inoperative <input type="checkbox"/> Using defective equipment <input type="checkbox"/> Using equipment in an unapproved way <input type="checkbox"/> Unsafe lifting <input type="checkbox"/> Taking an unsafe position or posture <input type="checkbox"/> Distraction, teasing, horseplay <input type="checkbox"/> Failure to wear personal protective equipment <input type="checkbox"/> Failure to use the available equipment / tools <input type="checkbox"/> Others: | |
| <p>Why did the unsafe conditions exist?</p> | | |
| <p>Why did the unsafe acts occur?</p> | | |
| <p>Is there a reward (such as “the job can be done more quickly”, or “the product is less likely to be damaged”) that may have encouraged the unsafe conditions or acts? If yes, describe:</p> | | |
| <p>Were the unsafe acts or conditions reported prior to the incident?</p> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

| | | |
|---|------------------------------|-----------------------------|
| Have there been similar incidents or near misses prior to this one? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|---|------------------------------|-----------------------------|

Step 4: How can future incidents be prevented?

What changes do you suggest to prevent this incident/near miss from happening again?

| | |
|---|--|
| <input type="checkbox"/> Stop this activity | <input type="checkbox"/> Guard the hazard |
| <input type="checkbox"/> Train the employee(s) | <input type="checkbox"/> Train the supervisor(s) |
| <input type="checkbox"/> Redesign task steps | <input type="checkbox"/> Redesign work station |
| <input type="checkbox"/> Write a new policy/rule | <input type="checkbox"/> Enforce existing policy |
| <input type="checkbox"/> Routinely inspect for hazard | <input type="checkbox"/> Personal Protective Equipment |
| <input type="checkbox"/> Other: | |

What should be (or has been) done to carry out the suggestion(s) checked above?

Description continued on attached sheets:

Step 5: Who completed and reviewed this form? (Please Print)

| | |
|---------------------------------------|----------------------------|
| <p>Written by:</p> <p>Department:</p> | <p>Title:</p> <p>Date:</p> |
|---------------------------------------|----------------------------|

| | |
|--------------------------------------|--------|
| Names of investigation team members: | |
| Reviewed by: | Title: |
| | Date: |

Step 6: Documents

Number of attachments: _____

- Written witness statement
- Medical certificate / death certificate (*incase of injury and occupational disease*)
- Photographic evidences
- Sketch and drawings (*place/site of incidant occurred*)
- Others:

Form 9: CLA's decision: Appeals against Improvement Notice OR Prohibition Notice

Decision No. _____

Name of enterprise: _____

Responsible person

Name: _____

Position: _____

Improvement Notice ()

IN Number _____

Date of issue _____

Prohibition Notice ()

PN Number _____

Date of Issue _____

I hereby uphold/ dismiss your appeal against the above notice being issued to your enterprise on the following grounds:

CLA Signature

Date

Form 10: Notification of Labour Dispute

1. Labour Dispute No. _____
2. Date of receipt of notification: _____
3. Notification received by: _____
4. Parties to the dispute

Complainant: _____

Contact details : Telephone: Fax:
Mobile:

Defendant: _____

Contact details : Telephone: Fax:
Mobile:

Enterprise _____

5. When did the dispute arise?

-
6. Where did the dispute arise? (Give details e.g. packing section, loading area, storage area, etc.)

-
7. What is in dispute? (Give details of facts, dates, issues (e.g. wages, leave, hours of work, safety, contract of

employment, etc.) and persons involved. (*Attach relevant documents*)

8. Is this dispute over rights? ()
Interests? ()

9. Is this dispute individual? ()
collective? ()

10. Does the enterprise have a workers' association? (YES) (NO)

If yes, has the workers' association been notified of the dispute? (YES) (NO)

If yes, what action did it take?

11. Does the enterprise have a grievance procedure? (YES)
(NO)

If yes, was the grievance procedure followed? (YES) (NO)

If no, why not?

If the grievance procedure was followed, why did it fail?

12. Summary of Claimant's demand;

13. This dispute arises from (tick);

- () Labour and Employment Act, 2007
- () Regulations under the Act
- () Contract of employment
- () Internal service rules
- () Collective bargaining agreement
- () Custom and practice
- () Other

14. If the dispute arises under the law

Which sections of the Act apply?

Which regulations and sections apply?

15. Recommendations of Labour Relations Officer

() Dispute be sent back to the parties for reconsideration and possible resolution

() A labour relations officer be appointed to investigate the dispute and report under section 195

Signature of Labour Relation Officer

Date:

16. Action of Chief Labour Administrator

() Dispute sent back to parties

() Labour relations officer appointed

Signature of Chief Labour Administrator

Date:

Form 11: Appointment of LRO as Investigation Officer

Labour Dispute No. _____

Enterprise_____

In accordance with section 195 of the Labour and Employment Act of Bhutan, 2007, I hereby appoint _____, Labour Relations Officer, to investigate the labour dispute notified to the Ministry on _____, between _____ Complainant, and _____ Respondent.

The appointed labour relations officer shall file a report on the resolution of the dispute within 7 days from his/her appointment and at latest by _____.

Signature of Chief Labour Administrator

Date

Form 12: LRO's Investigation Report

Labour Dispute No. _____

Date of LRO's Investigation:

Commencement _____ End _____

Enterprise: _____

Complainant: _____

Respondent: _____

Details: _____

Type of Dispute

| | | | |
|------------|-----|------------|-----|
| Rights | () | Interest | () |
| Individual | () | Collective | () |

| | | |
|---|-------|------|
| Prior attempts to resolve dispute | (YES) | (NO) |
| Use of grievance procedure | (YES) | (NO) |
| Discussion with workers in general | (YES) | (NO) |
| Discussion with workers' association | (YES) | (NO) |
| Direct discussion between the disputing parties | (YES) | (NO) |
| Correspondence between disputing parties | (YES) | (NO) |
| Involvement of third parties (other than DOL) | (YES) | (NO) |

Other attempts

Is the complainant in breach of the law? (YES) (NO)

If yes, which sections of the

- Act _____
- Regulations _____

Is the defendant in breach of the law? (YES) (NO)

If Yes, which sections of the

- Act _____
- Regulations _____

Advice given by the LRO to the parties concerning their respective obligations.

Complainant:

Defendant:

Action or suggestions given by the LRO to the parties to resolve their dispute.

Has the dispute been resolved?

(YES) (NO)

If yes, what are the terms of the resolution?

Submitted to the CLA on _____

Signature

Labour Relations Officer

Date:

Form 13: Resolution of Labour Dispute

With regard to Labour Dispute No. _____
between _____
and _____ notified to the Department of
Labour on _____, please be advised that I have
examined the terms of the resolution to your dispute and hereby
certify that the proposed terms are in conformity with the
provisions of the Labour and Employment Act 2007 and its
regulations.

Accordingly, a record of the terms of your resolution has been
placed on file, and as the agreement is now legally binding both
the parties are required to abide by the terms of this agreement.

Chief Labour Administrator

Date

Form 14: Appointment of a Conciliator by the Disputing Parties

Labour Dispute No. _____

Name of Enterprise

Complainant(s)

Defendant(s) _____
In accordance with section 196 of the Labour and Employment Act
2007 I hereby declare that

- () the Labour Relations officer appointed to investigate this dispute has reported that the parties have failed to resolve it, or

- () the proposed resolution fails to comply with the Labour and Employment Act and its regulations.

Accordingly, I hereby direct the parties to appoint a conciliator of their own choosing within 4 days of receipt of this notification to assist in resolving the dispute. If the parties agree on the appointment of a conciliator, the conciliator is required to conduct the conciliation in accordance with the following guidelines, and report to the Chief Labour Administrator within 4 days of conducting the conciliation.

The conciliator shall

- (a) commence the conciliation promptly,
- (b) conduct the conciliation in a manner which is fair and balanced,

- (c) call the parties to attend meetings to discuss the dispute,
- (d) allow the parties to appear on their own behalf or be represented.

If the conciliator is not a labour relations office, the conciliator shall be assisted by such an officer.

If the parties are unable to agree on the appointment of a conciliator, they are required to notify the Chief Labour Administrator in writing before the expiry of the 4 day period referred to above. In such cases, the Chief Labour Administrator will appoint two conciliators to assist in resolving the dispute.

Please find enclosed a copy of a document titled *Conciliation Guidelines*, prepared by the Department of Labour.

Chief Labour Administrator

Form 15: Appointment of Conciliators by the Chief Labour Administrator

Labour Dispute No. _____

Name of Enterprise _____

Complainant(s) _____

Respondent _____

The parties to this dispute have failed to agree on the appointment of a conciliator of their own choosing and the dispute remains unresolved.

In accordance with the provisions of Section 198 of the Labour and Employment Act of Bhutan 2007, I, hereby appoint the following conciliators to assist the disputing parties to resolve this dispute.

1. _____

2. _____

Within four days after conducting the conciliation the appointed conciliators will prepare a report on the outcome of the conciliation process.

Chief Labour Administrator

Date:

Form 16: Conciliation Agreement not in compliance with the law

Labour Dispute No. _____

Name of Enterprise _____

Claimant(s) _____

Respondent(s) _____

The agreement reached by the disputing parties in the above dispute is not in compliance with the provisions of the Labour and Employment Act 2007 and, thus, is unenforceable. The agreement reached by the parties fails to comply with section(s) _____ of the Act which state as follows:

With the assistance of your conciliator, you may agree to amend the agreement so that it complies with the provisions of the law and re-submit the amended agreement for certification. You have a period of three (3) days in which to submit your amended agreement. If the amended agreement is in compliance with the law, you will be notified in writing, the agreement will be enforceable, and your dispute will be resolved.

If the parties fail to agree to the amendment of your agreement you are required to notify in writing the Chief Labour Administrator within three (3) days from the date of this notification. In such circumstances, the Chief Labour Administrator

shall advise you of the further action to be taken to resolve your dispute.

Chief Labour Administrator
Date

Cc Conciliator

Form 17: Failure of Conciliation: Rights Dispute

Labour Dispute No. _____

Name of Enterprise: _____

Claimant(s)

Respondent

The parties to the above rights dispute have failed to reach an agreement or, the agreement reached has failed to comply with the provisions of the law and is thus unenforceable.

In accordance with the provisions of the Labour and Employment Act 2007 the parties shall now take their dispute to a court of law for settlement. This means that the dispute is no longer in the hands of the Department of Labour and that the final decision in this dispute will be made by the court and not the parties themselves.

The parties are advised, however, that they may revive the conciliation process at any time prior to the commencement of the court proceedings, by notifying the Chief Labour Administrator in writing of their intention to make a further attempt to reach agreement through conciliation.

Chief Labour Administrator

Date

Form 18: Failure of Conciliation: Interest Dispute

Labour Dispute No.: _____

Name of Enterprise: _____

Claimant(s)
Respondent

The parties to the above interest dispute have failed to reach an agreement or, the agreement reached has failed to comply with the provisions of the law and is thus unenforceable.

In accordance with the provisions of the Labour and Employment Act 2007 the parties shall now have their dispute settled by an arbitrator to be appointed by the Ministry. This means that the dispute is still under the jurisdiction of the Department of Labour but that the final decision in this dispute will be made by the arbitrator, and not the parties themselves.

The parties are advised, however, that they may revive the conciliation process at any time prior to the commencement of arbitration proceedings by notifying the Chief Labour Administrator in writing of their intention to make a further attempt to reach agreement through conciliation.

Chief Labour Administrator

Date

Cc Conciliator

Form 19: Employer Undertaking Form

I, the undersigned holding Citizenship Identity Card/Document No.....would like to apply for the following professional /skilled foreign worker(s) to work at..... (work Site) under.....
Dzongkhag:

| Sl. No | Name of the foreign workers | Voter ID/Passport no. | Job category | Country of Origin |
|--------|-----------------------------|-----------------------|--------------|-------------------|
| | | | | |
| | | | | |
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| | | | | |
| | | | | |
| | | | | |

(Attach additional sheet if required)

Towards this, I understand that:

- (i) It shall be mandatory, without exception, for all foreign worker(s) granted entry to undergo quarantine at a designated facility as per the notification issued by the government.
- (ii) Home quarantine shall not be permitted for any foreign worker.
- (iii) All foreign workers must produce a COVID-19 Negative Certificate at points of entry. The test must be carried out by RT-PCR from a certified Laboratory NOT earlier than 72 hours (3 days) prior to leaving the country of origin. Foreign workers from India may produce a Rapid Antigen Test Negative Certificate if they do not have access to RT-PCR testing.
- (iv) The General Medical Screening shall be facilitated at the quarantine facility.

- (v) All costs relating to general medical checkup, quarantine, testing and medical treatment/intervention/evacuation shall be borne by the employer.
- (vi) Costs of quarantine shall be as per rates approved by the government. Other costs relating to testing and medical treatment/intervention/evacuation shall be levied by the concerned agency.
- (vii) On completion of quarantine, the foreign worker(s) shall be permitted to leave the facility, if they test negative.
- (viii) All foreign workers admitted into the country shall be required to comply with all Notifications issued by the government including COVID-19 safety protocols/advisories issued by the Ministry of Health.
- (ix) All foreign workers shall be insured as per provision of Labour and Employment Act of Bhutan, 2007 and its regulations.
- (x) All the provisions of Labour and Employment Act of Bhutan, 2007 and the guidelines are to be fully complied.

I hereby affirm that all information provided by me is complete and correct. In the event of submission of false information and non-compliance of the above conditions, I shall be liable for penalties/prosecution as per the relevant laws of the Kingdom of Bhutan.

Legal Stamp/
Signature

Name:
 Address:
 Contact No.:
 Email address:

Form 20: Format for Redeployment of Foreign Workers

Employer Details

1. Relieving Employer

Employer Name/entity:

CID/Trade license/CDB.....

Contact number:

Dzongkhag: Gewog:,

Exact Location:

2. Receiving Employers

Employer Name/Entity:

CID/Trade license/CDB:

Contact number:

Dzongkhag: Gewog:

Exact Location.....

Foreign Workers Details

Total Nos. of Foreign Workers for redeployment =

| Sl. No. | Name of FW(s) | Work Permit (WP) Number | Occupation | WP Expire date |
|---------|---------------|-------------------------|------------|----------------|
| 1 | | | | |
| 2 | | | | |
| 3 | | | | |
| 4 | | | | |
| 5 | | | | |

Note: Attached additional page if more FWs.

1. Undertaking

3.1 Relieving Employer

Please cancel the work permit of
.....(Total Nos.) Foreign Workers
listed above which were issued in my
name/entity as my construction work
is completed.

Name and Signature

Name and Sign
Date:

3.2 Receiving Employer

I hereby undertake full
responsibility of above foreign
workers to be deployed in my
construction or business
undertaking.

In the event of 6 months cooling
period applied to the Foreign
Workers, I undertake to
repatriate the Foreign Worker
once the restriction is lifted.

Name and Signature

Legal Stamp

Form 21: Letter of Undertaking (furniture units)

I Mr./Mrs. bearing CID No
the proprietor offurniture unit, Gewog.....
Dzongkhag under take to abide by the
terms and condition laid in the SoP for Furniture Units, Labour and Employment
Act 2007 and any other relevant laws of the country.

Towards this end, I hereby agreed and declared to adhere the following terms
and conditions_about the '**Minimum Requirement of the furniture units to
Recruit a Master Trainer**' for **one year** which is agreed by both the Parties
hereto as follows:

Terms and conditions

1. Standard Furniture Units must have the minimum of the following:
 - i. Furniture Units shall have an area of 1000sqft
 - ii. Furniture Units shall have a separate polishing room.
 - iii. Sanding Machine 1 No.
 - iv. Drilling Machine 1 No.
 - v. Air Compressor 1 No.(optional)
 - vi. Circular Saw 1 No.
 - vii. Surface Machine 1 No.
 - viii. Clamps 10 Nos.
 - ix. Suction Machine 1 No. (optional)
 - x. Router Machine 1 No.
2. Employ minimum of 3 Bhutanese Furniture Makers/Carpenters.
3. Maintain conducive and safe working environment.
4. Provide Personal Protective Equipment (PPE) to the employees at work place.
5. Adhere to the employment conditions in accordance to the Labour and |Employment Act of Bhutan 2007 and its regulations.
6. The Furniture Units have to maintain 3 Bhutanese Furniture Makers throughout the year.
7. The approval of the foreign workers in Furniture Units shall be sanctioned only upon fulfilling the above criteria based on the site verification.

NB: 1. Upon fulfilling the above minimum requirements, a Master Trainer will be approved for duration of one (1) year. The approval of a Master Trainer will be discontinued at any time if any of the minimum requirement conditions are not fulfilled and not constant throughout the year.

Name and Signature (legal stamp)
stamp)

Signature of applicant (legal

(Witness)

Contact

Number

CID number:

Contact Number

For Official use Only

Site verified by the relevant officials from RO/HQ and their recommendation

I. Recommend for approval of FW

II. Not recommended for approval of FW

Name of officer, signature & designation.....

Form 22: Letter of Undertaking (Budget Hotels)

I Mr./Mrs.bearing CID No.....the proprietor offirms, Gewog..... Dzongkhag under take to abide by the terms and condition laid in the SoP for budget hotels, Labour and Employment Act 2007 and any other relevant laws of the country.

Towards this end, I hereby agreed and declared to adhere the following terms and conditions about the '**Minimum Requirement of the budget hotels to Recruit a Master Trainer**' for one year which is agreed by both the Parties hereto as follows:

Terms and conditions

- i. Budget hotels shall be located in the border towns of Samdrup jongkhar/Chukha (Phuntsholing) /Samtse (Samtse town) Sarpang (Gelephu).
- ii. Budget hotels shall have at least 5 rooms (lodge).
- iii. Employ minimum of 3 Bhutanese in F & B.
- iv. Maintain conducive and safe working environment.
- v. Adhere to the employment conditions in accordance to the Labour and |Employment Act of Bhutan 2007 and its regulations.
- vi. The Budget hotels have to maintain 3 Bhutanese in F & B throughout the year.
- vii. The approval of the foreign workers in budget hotels shall be sanctioned only upon fulfilling the above criteria based on the site verification

NB: 1. Upon fulfilling the above minimum requirements, a Master Trainer will be approved for duration of one (1) year. The approval of a Master Trainer will be discontinued at any time if

any of the minimum requirement conditions are not fulfilled and not constant throughout the year.

Name and Signature (legal stamp)

Signature of applicant (legal stamp)

(Witness)

Contact Number

CID number:

Contact Number

For Official use Only

Site verified by the relevant officials from RO/HQ and their recommendation

- 1.Recommend for approval of FW
- 2. Not recommended for approval of FW

Name of officer, signature &
designation.....

Form 23: Additional Foreign Workers Requisition Form

I Mr/Mrs..... CID/License/CDB
 No..... Contact
 Number.....Location.....Gewog.....
Dzongkhag..... would like to seek additional
 numberof foreign workers for the construction of
worksite..... for the duration of
years/months.

| Sl.No | Occupation | No.of Foreign Workers Requirement |
|-------|------------|-----------------------------------|
| | | |
| | | |
| | | |
| | | |
| | | |

Note-add additional sheet if required more FWs

I hereby affirm that all information provided by me is complete and correct. In the event of submission of false information and non-compliance of the above conditions, I shall be liable for penalties/prosecution as per the relevant laws of the Kingdom of Bhutan.

Legal Stamp/
Signature

Name:

Address.....

Contact No.:

Email address:

For Official use only

Site verified by the relevant officials from RO/HQ and their recommendation

Recommend/Not Recommend

Note.....

Name of officer, signature & designation