



# WEEKLY LABOUR BULLETIN

Commercial Farmers Union Bulletin #15



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## LABOUR INSPECTIONS & COMPLIANCE: WHAT EVERY FARMER MUST KNOW

### INTRODUCTION

Labour inspections from Labour Officers, National Employment Councils (NECs), NSSA inspectors, and other regulatory authorities are something that farmers must expect in their operations. Some farmers only begin preparing when inspectors arrive, which often exposes gaps in documentation, employment practices, and statutory compliance. Being well prepared should there be an inspection, is advisable.

This bulletin outlines the key areas farmers should focus on to remain compliant and avoid unnecessary disputes, penalties and operational disruptions.

### WHO MAY INSPECT A FARM?

The law allows several authorities to lawfully inspect a farming operation, including:

- **Ministry of Public Service, Labour and Social Welfare Labour Officers** – They are empowered to do so by section 126 of the Labour Act, as they have an oversight role even over NECs. It is common practice for Labour Officers to conduct joint inspections with DAs from the NEC.
- **Designated Agents from the NEC** – Empowered by section 63 of the Labour Act
- **NSSA inspectors** – NSSA has specific inspectors appointed in terms of section 39 of the NSSA Act for Occupational Safety and Health (OSH) as stipulated by SI 68 of 1990, and pensions and other benefits according to S.I 393 of 1993.
- **Environmental Management Agency (EMA)** - Inspectors are appointed in terms of section 35 of the Environmental Management Act [Chapter 20:27], and their role is to assess the environmental impact of the farming operations
- **Immigration authorities** – Empowered by section 7 of the Immigration Act [Chapter 4:02].

When inspectors from the relevant authorities visit a farm, they are empowered to enter workplaces during reasonable hours, request access to employment records, interview employees, and assess compliance with labour laws and applicable collective bargaining agreements. They may also look into complaints raised by employees or unions, among other matters. In this

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context, it is helpful for farmers to engage cooperatively and professionally during inspections, while also ensuring that the necessary records are readily available.

## COMMON REASONS FARMS ARE INSPECTED

There are several reasons why the authorities may come to the farm to inspect the farming operations, which include:

- Employee complaints
- Wage disputes
- Allegations of unfair dismissal
- Non-payment of NEC wages
- Child labour allegations
- Poor housing or sanitation conditions
- Occupational accidents
- Failure to remit NSSA contributions
- Union complaints
- Random compliance audits are part of their duty to do so on companies that employ people to ensure compliance with relevant legislation.

If there is poor record-keeping, it will become a very big problem during inspections rather than the original complaint itself.

## KEY DOCUMENTS EVERY FARM SHOULD KEEP

It is important for every farm to maintain key documents and records to help demonstrate compliance with relevant laws and regulations whenever required by the authorities. Proper record keeping not only supports smooth inspections but also helps farmers avoid possible penalties associated with non-compliance.

### EMPLOYMENT RECORDS

In terms of Section 125 of the Labour Act, employers are required to keep employment records for a minimum period of three years so that they can be made available when requested by a Labour Officer or Designated Agent. Employers may also choose to keep records for longer periods, as other statutory bodies such as NSSA may require historical records covering additional years. Some of the important employment records that should be maintained include:

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- Written contracts of employment – In one of our earlier bulletins, we discussed the importance of having written contracts of employment in place. Properly documented contracts can assist in providing clarity and guidance should disputes arise regarding matters such as employment status, continuous service, wage entitlements, retrenchment benefits, and other employment-related issues.
- Employee registers
- Job descriptions
- Copies of national IDs
- Attendance registers
- Leave records
- Payroll records
- Proof of wage payments

## STATUTORY COMPLIANCE RECORDS

In one of our previous bulletins, we discussed the various statutory deductions that are applicable. To support proper record keeping and compliance, it is advisable for farmers to maintain accurate records of all deductions made, ensuring that these correspond with the relevant employment records. Some of the key statutory compliance records that should be maintained include:

- N SSA registration documents
- N SSA remittance records
- N EC registration documents
- N EC payment receipts
- P A Y E records, where applicable

## DISCIPLINARY & HR RECORDS

The DAs and Labour Officers will also need to check if the farmers are complying with the laid-down disciplinary procedures when they do them. Section 5 of the 7th schedule of S.I 41 of 2022 details the disciplinary procedure, and it gives important steps to be taken. In those steps, there are important documents that are issued and used; these also must be kept, and these include:

- Warning letters
- Suspension letters where applicable
- Hearing invitation letters
- Hearing minutes
- Outcome of disciplinary hearing
- Codes of conduct
- Grievance records
- Termination records



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## HEALTH & SAFETY RECORDS

Health and safety records play an important role in farming operations, particularly as there has been increased focus on compliance in this area. For example, failure to report workplace accidents may attract penalties of up to \$18 000 per unreported incident to NISSA, in terms of Section 5 of S.I. 100 of 2024. Maintaining accurate and up-to-date records can therefore assist farmers in demonstrating compliance and promoting safer working environments. Some of the important records that should be maintained include:

- Accident registers – It is advisable to also keep copies and records of reports submitted to NISSA, as Section 48 (6) of S.I. 68 of 1990 places the responsibility on the employer to show proof of submission where required.
- PPE issuance records
- Safety training records
- Chemical handling procedures - these will be of interest to EMA
- First aid arrangements

## NEC COMPLIANCE

Farmers are expected to comply with the applicable Collective Bargaining Agreement (CBA) under the Agriculture Industry NEC. During inspections, attention is often given to many key areas, which may include:

- Minimum wages
- Job grading
- Leave entitlements
- Working hours
- Overtime payments
- Housing provisions
- Provision of allowances where they are not provided
- Retrenchment procedures
- Provision of PPEs

***Failure to comply with NEC provisions may result in:***

- Orders to pay arrears
- Penalties
- Labour disputes
- Litigation



## CHILD LABOUR COMPLIANCE

Child labour continues to be an important area of focus within the agricultural sector, and farmers are encouraged to ensure that no children below the lawful working age are engaged in employment (see Labour Bulletin on Child Labour for further guidance). Beyond the legal implications, any concerns or allegations relating to child labour may also affect export opportunities and have an impact on a farm's commercial reputation.

## OCCUPATIONAL SAFETY & HEALTH

Farm employers play an important role in helping to ensure a reasonably safe working environment. Key areas of compliance in this regard include:

- Provision of PPE
- Safe chemical storage
- Proper handling of pesticides
- Machinery safety, which includes the ferrying of employees on tractor-trailers
- Clean drinking water
- Sanitation facilities
- Accident reporting
- Worker safety training

***Failure to maintain proper safety standards may expose the farmer to:***

- Civil claims
- Criminal penalties
- NSSA investigations
- Increased workplace accidents, which will be costly to the farmer

## ACCOMMODATION & FARM COMPOUNDS

Where accommodation is provided, please ensure:

- Basic sanitation standards are maintained
- Water supply is available where possible
- Housing conditions are safe
- Waste disposal systems are functional
- Lights and fuel provided are adequate

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## HOW TO HANDLE A LABOUR INSPECTION

As indicated earlier, inspections are part of an employer's journey in employment, and there are certain things that they must do during an inspection and what they must not do. Below are what to do and what not to do.

### WHAT TO DO:

- Co-operate professionally
- Provide the requested records
- Keep copies of all documents submitted
- Ask for clarification where necessary
- Record issues raised during inspection so that they can be rectified

### WHAT NOT TO DO:

- Conceal records
- Provide false information
- Obstruct inspectors
- Intimidate employees
- Alter records after inspection begins

Professional engagement often helps resolve issues more efficiently, and where there is non-compliance, leniency may be granted and grace periods given to rectify issues.

## PRACTICAL COMPLIANCE TIPS FOR FARMERS

Farmers are encouraged to:

- Conduct internal compliance audits regularly
- Keep employment records updated
- Review NEC wage adjustments promptly
- Train supervisors on labour procedures
- Maintain proper disciplinary processes
- Ensure workplace safety measures are implemented
- Training employees who handle hazardous chemicals and machinery
- Seek professional advice when they are not sure of anything.

The famous adage "prevention is better than cure" is instructive in this case. Preventive compliance is generally less costly than defending labour disputes after non-compliance has already occurred.

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## CONCLUSION

Labour inspections may be viewed not only as enforcement processes, but also as opportunities for farms to strengthen their compliance systems and reduce potential legal risks. Farmers who maintain proper records, adhere to labour regulations, and address issues proactively are often better placed to minimise disputes and avoid operational interruptions.

***Disclaimer: This article is issued to serve as a general guide to farmers and does not substitute legal advice that may be required to address a particular situation with peculiar circumstances.***

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