

Rwanda

Ministerial Order relating to Labour Inspection

Ministerial Order 1 of 2020

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Ministerial Order relating to Labour Inspection
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Rwanda

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The Minister of Public Service and Labour;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 121, 122 and 176;

Pursuant to Law n° 66/2018 of 30/08/2018 regulating labour in Rwanda, especially in Articles 103 and 120;

Having reviewed Ministerial Order n° 07 of 13/07/2010 determining the modalities of functioning of the labour inspector;

After consideration and approval by the Cabinet, in its meeting of 28/01/2020;

ORDERS:

Chapter One

General provision

Article One – Purpose of this Order

This Order determines the organisation, functioning of labour inspection and procedure of settlement of labour disputes.

Chapter II

Organisation, responsibilities and powers of labour inspection

Article 2 – Organisation of labour inspection

Labour inspectors carry out their mission at central level and decentralized entities.

Article 3 – Responsibilities of labour inspection

The labour inspection has the following responsibilities:

- 1° to ensure the implementation of labour policies and laws;
- 2° to advise employers and employees on compliance with labour laws;
- 3° to conciliate the employee and employer on labour disputes;
- 4° to bring to the attention of the competent authority defects or illegal issues;
- 5° to collect and analyse labour statistics.

Article 4 – Territorial jurisdiction of a labour inspector

A labour inspector at the national level is competent to carry out his or her duties throughout the national territory and coordinates all activities of the labour inspection in the whole country.

The labour inspector at a decentralised entity has competence to carry out his or her functions within his or her jurisdiction.

However, a labour inspector at a decentralised entity may carry out his or her responsibilities out of his or her jurisdiction, upon written authorisation by the Minister in charge of labour.

Article 5 – Making recourse to a resource person

A labour inspector may invite experts and technicians to better understand the activities carried out in an enterprise, the methods of their execution, basic materials used as well as the measures applied to protect health and safety of employees.

Experts and technicians referred to in Paragraph One of this Article provide assistance under the supervision of the labour inspector. Any expenses arising from provision of such assistance are covered by the Government.

Any invited resource person enjoys the same functional facilities as those granted to the labour inspector.

The invited resource person is required to maintain professional secrecy in the same way as the labour inspector does.

Article 6 – Powers of the labour inspector

Powers of the labour inspector are as follows:

- 1° issue a written warning to the head of an enterprise, if necessary;
- 2° impose administrative fines to an enterprise, in accordance with the law regulating labour in Rwanda;
- 3° recommend temporary closure of an enterprise;
- 4° conciliate employee and employer in case a labour dispute arises;
- 5° summon public institutions for amicable settlement of labour disputes.

Upon presentation of his or her service identification, the labour inspector can:

- 1° enter in enterprise of his or her jurisdiction during working hours, without notice for inspection purpose;
- 2° conduct inspection or investigations if he or she considers it necessary in order to determine whether laws are being respected, with special emphasis on the following:
 - a. interviewing, alone or in the presence of witnesses, the employer or employees of the enterprise to find out if the enterprise comply with laws and regulations in force;
 - b. to consult registers or any other document required by laws regulating labour and getting a copy of any document when requested;
 - c. to request the display in the enterprise of the notices specified by the laws;
 - d. to take a material of the enterprise in presence of the employer or his or her representative for analysis, if necessary. The cost of analysis is borne by the Government.

Chapter III

Carrying out labour inspection

Article 7 – Non obligation to inform the employer of the day of inspection visit

A labour inspector is not obliged to notify the employer of the day of inspection.

Article 8 – Institutions that a labour inspector cannot inspect

A labour inspector cannot inspect public institutions in charge of security.

The Labour Inspector does not also inspect an enterprise in which he or she has personal interest, whether direct or indirect. In that case, the labour inspector notifies the Minister in charge of labour in order to nominate another labour inspector to inspect that enterprise.

Article 9 – Professional secrecy

A labour inspector to whom an information is entrusted shall not divulge the professional secrecy unless it is authorized by the provisions of this Order, other laws or ordered by a judicial decision.

A labour inspector treats confidentially the source of information that indicates a deficiency or non-compliance with legal provisions of laws and abstains from revealing to the employer or the representative of the employer that the inspection results from a submitted complaint.

Chapter IV

Procedures for settling labour disputes and modalities for imposing sanctions

Section One – Labour dispute settlement through conciliation

Article 10 – Submission of a labour dispute to labour inspection

A labour dispute is submitted in writing to the labour inspector.

Article 11 – Summoning and notifying parties to a labour dispute

A labour inspector who receives an individual or collective labour dispute summons in writing, both parties to the dispute to appear before the labour inspection on the day and hour specified in the summon.

A labour inspector also has powers to summon a public institution which has a labour dispute with an employee for amicable settlement.

However, embassies, members of diplomatic corps and international organisations are summoned in accordance with the procedures determined by the Minister in charge of foreign affairs and international cooperation.

All parties to the labour dispute appears before the labour inspector within seven (7) days from the day of the summon.

Article 12 – Failure to appear before a labour inspector

In case there is a summoned party who failed to appear but provided valid written justifications, the labour inspector ressumons parties for the second time within five (5) days from the day on which the parties were scheduled to appear.

However, if a party failed to appear at the first time without providing valid written justification, the labour inspector, upon request by the interested party, prepares the minutes of non-conciliation by default and refer the case to the competent court.

Article 13 – Representation or assistance in the conciliation for labour dispute

During conciliation, any party to a labour dispute may be represented or assisted by a counsel or any other person authorized in writing by the concerned party.

Article 14 – Conciliation of parties

The labour inspector strives to settle amicably the labour dispute between parties. If conciliation fails, the inspector issues the parties with the minutes of non-conciliation and the interested party may refer the case to the competent court.

Article 15 – Settlement agreement and its execution

The settlement agreement between the employer and employee concluded before the labour inspector is executed as agreed.

In case any of the parties fails to comply with the settlement agreement, the settlement agreement is executed in accordance with the provisions of relevant laws.

However, if a labour inspector fails to settle a collective labour dispute, the inspector refers the dispute to the Minister in charge of labour who then submits it to the National Labour Council.

Article 16 – Conduct of a labour inspector during conciliation

The labour inspector explains to the parties how the conciliation process is conducted.

The labour inspector conducts conciliation with impartiality and ensures that all parties have adequate opportunities to be heard, to be involved in the process and have, if so required, the opportunity to seek legal advice.

The labour inspector is prohibited from imposing on the parties to get into agreement.

The labour inspector conducts conciliation independently, without any external influence.

Section 2 – Labour dispute settlement through arbitration

Article 17 – Establishment of the arbitration committee and its functioning

The National Labour Council issues special regulations determining the modalities for the establishment of arbitration committee and its functioning.

Article 18 – Referral to the arbitration committee

The National Labour Council, after receiving the collective labour dispute from the Minister in charge of labour, sets up an arbitration committee to settle the collective labour dispute.

Article 19 – Independence of the arbitration committee

The arbitration committee is independent in taking awards, based on the existing laws and collective agreements. In case of silence of laws and collective conventions, the committee decides in equity on the prevailing disputes.

Article 20 – Award of the arbitration committee and its execution

The Minister in charge of labour or a labour inspector of the area notifies the concerned parties of the award of arbitration committee.

The award of the arbitration committee is executed within thirty (30) days from the day of notification of the decision to the concerned parties, unless any of the parties files an appeal to a court.

Article 21 – Interpretation of provisions of collective agreement

In case an arbitration award or a judgment relates to the interpretation of a clause of a collective convention, such an award or judgment has the same effects as those of a collective convention.

Article 22 – Notification of the decisions on collective labour dispute

The competent labour inspector submits to the registrar of the competent court the conciliation minutes on amicable dispute settlement or the award of the arbitration committee on collective labour dispute for enforcement from that day.

Section 3 – Modalities for imposing administrative fine

Article 23 – Modalities for implementation of sanctions imposed by the labour inspector

The labour inspector imposes to an employer an administrative fine provided by the law regulating labour if:

- 1° the labour inspector summons that employer in writing and the employer fails to appear without valid reasons provided in writing;
- 2° the employer refuses to provide information requested in writing by the labour inspector during the labour inspection or labour dispute investigation within seven (7) days from the day of reception of the request;
- 3° the employer fails to execute labour inspector's recommendations within the prescribed period.

If the labour inspector is going to impose to the employer an administrative fine of more than five hundred thousand Rwandan francs (FRW 500,000), he or she must first request the approval of the Minister in charge of labour.

Article 24 – Deadline for payment of the fine

An employer pays an administrative fine imposed by a labour inspector within seven (7) days from the date on which the fine was imposed. The fine is deposited in the State Treasury and a copy of the deposit is sent to the Labour Inspector.

In case the employer does not pay the fine within the period specified in Paragraph One of this article, the labour inspector informs the Minister in charge of labour to take an decision.

Chapter V Final provisions

Article 25 – Repealing provision

Ministerial Order n° 07 of 13/07/2010 determining the modalities of functioning of the labour inspector and all prior provisions contrary to this Order are repealed.

Article 26 – Commencement

This Order comes into force on the date of its publication in the Official *Gazette* of the Republic of Rwanda.