

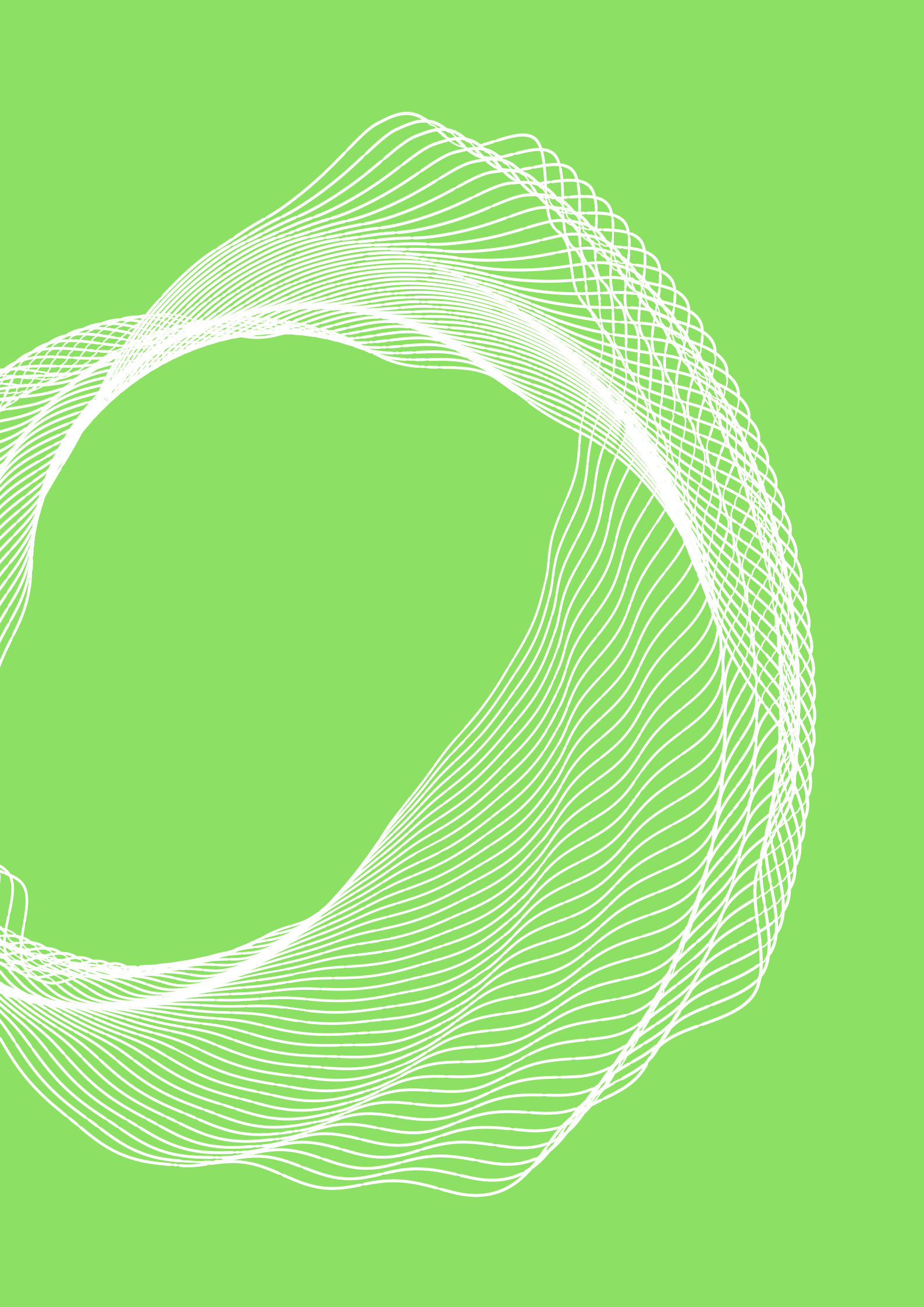


International
Labour
Organization



Guidelines for social security inspections

in the Lao People's Democratic Republic



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Foreword

The state social security scheme was officially established in 1993, and the enterprise social security scheme was established in 2001. Since 2014, these two insurance schemes have been united under the same legislation and organization. The outstanding issue now is the implementation of the strategy aimed at expansion of social security coverage across workers in various labour units. It is these labour units who are the target group of that strategy, as they are obliged to implement the Law on Social Security, which seeks to use state means to protect workers faced with socio-economic risks and life-cycle events, such as births, illnesses, deaths and so on, that may result in loss of income or increased expenses. At the same time, the strategy of social security seeks to promote jobs and raise the quality of work to a higher level, increase the motivation of workers, and encourage currency support and domestic consumption as a means of contributing to the mission of reducing poverty among the citizenry, promoting industrial transformation and enhancing diversity step-by-step. Greater formalization, including social security coverage, is also a confidence-building for international buyers, enabling them to ensure that Lao producers in their supply chains are treating their workers fairly and decently.

To date, we have never conducted inspections that specifically address the matter of social security compliance, and we have not yet taken measures against labour units that have failed to comply with the law by not registering their workers with social security. Rather than prioritizing enforcement, the decision was made at the highest levels of government, through tripartite consultation with the social partners, to focus instead on advocacy in order to encourage labour units and workers to join social security, along with the strengthening of legislation and the development of social security personnel and mechanisms. These advocacy efforts have been actively promoting social security in both urban and rural areas across the Lao People's Democratic Republic, but there are still a few enterprise and labour units that are not compliant and have not fully cooperated in this respect.

Recently, the Government, again following consultation with the social partners, have made the decision that the time has come for the implementation of social security laws and regulations to be more strictly enforced, and has directed the Lao Social Security Organization (LSSO) to research and develop detailed instruments to support this implementation effort. In response, the LSSO, with support from the International Labour Organization, have conducted research and developed the social security inspection guidelines in this manual, which has drawn on lessons learned from both domestic and overseas experience. Social security laws and regulations will not be able to be implemented in a consistent manner if there is a lack of unified understanding and cooperation among all relevant sectors, and these guidelines offer a means to impart that understanding while supporting inspectors in their work.

This manual provides an overview of the role of social security inspectors, who must be responsible for planning and conducting social security inspections. It also examines social security in accordance with the ILO Labour Inspection Convention, 1947 (No. 81), one of the most ratified international labour standards in the world.

The guidelines in this manual will serve as an important tool to help social security inspectors in monitoring and inspecting social security compliance, analysing problems and addressing conflicts in a professional manner, and enforcing the law universally and equally. It stands as an important source of good advice and support for our social security inspectors as they carry out their role and duties.

The implementation of the law through social security inspection work and participatory consultation is a project that is being implemented by the LSSO, and is currently in a transition stage that includes processes aimed at ensuring compliance with the Law on Social Security at a higher level.

The Lao Social Security Organization and the Ministry of Labour and Social Welfare would like to express its gratitude to the International Labour Organization for helping to develop these guidelines.

Mrs Keo Chantavixay

Director-General of Lao Social Security Organization
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Executive summary

These guidelines have been developed to guide the implementation of social security inspections in the Lao People's Democratic Republic, as part of the broader objective of strengthening compliance with social protection systems. Social security inspections are essential to ensure compliance with social security law, thus protecting workers and promoting fair labour practices.

The guidelines outline the framework for social security inspectors, detailing their roles and responsibilities, and provide procedural guidance to ensure consistent enforcement of social security regulations. They are aimed at improving the compliance of enterprises with the social security law, focusing on coverage expansion for workers in the formal and informal economy.

Key areas of the guidelines include:

- ▶ **The role of social security inspectors:** Inspectors are tasked with monitoring compliance with social security laws, educating employers and workers, and taking enforcement actions when necessary. Their role is critical to ensuring that workers receive the benefits they are entitled to under the law.
- ▶ **Inspection powers:** Inspectors are empowered with specific authority, including the ability to enter workplaces, request documents, conduct interviews and issue penalties for non-compliance. The guidelines emphasize a balanced approach, combining enforcement with education.
- ▶ **Inspection process:** The document provides step-by-step procedures for planning and conducting inspections, including strategic planning, documentation, and interaction with employers and workers. Inspectors are expected to use various tools, such as checklists and templates, to ensure thorough and consistent inspections.
- ▶ **Compliance and enforcement:** The guidelines outline the enforcement measures available to inspectors, such as warnings, fines and potential legal action. They also stress the importance of follow-up visits to ensure compliance and the resolution of any identified issues.
- ▶ **Ethical conduct:** Social security inspectors are required to adhere to a strict code of ethics, which includes professionalism, neutrality and respect for confidentiality. The guidelines outline the expected standards of behaviour for inspectors and the consequences of unethical actions.

Through the implementation of these guidelines, the Lao People's Democratic Republic aims to improve its social security system's efficiency and ensure that all workers, including those in the informal economy, receive the protection they are entitled to.

Module 1.

Background on social security inspection

1.1. What is labour administration, and how does it relate to social security inspection?

Labour administration is concerned with government activities in the field of labour policy, and includes policy development and formulation, as well as policy implementation through various means, including the enactment of labour and social security legislation and the enforcement of that legislation by inspectors. Labour administration represents the umbrella term that covers all areas of state intervention in labour matters, which in most countries covers three main areas: (i) policy shaping; (ii) policy formulation; and (iii) policy implementation.¹

There are four pillars to labour administration. These are: (i) employment; (ii) labour standards (labour inspection and social security); (iii) labour relations; and (iv) research. In 1978 an ILO Convention on labour administration was adopted by governments, employers' organizations and workers' organizations from around the world at that year's International Labour Conference.²

In 2001, the International Labour Conference held a general discussion on social security, with a view to determining the ILO's vision of social security in the twenty-first century. In the conclusions adopted by the Conference, social security was recognized as a basic human right and a fundamental means for creating social cohesion and strengthening social peace and social inclusion.³ Social security inspection is an essential part of the labour administration system, exercising the fundamental function of social security law enforcement and effective compliance. Social security inspection ensures fairness in the workplace, and consequently leads to sustainable enterprise and economic growth.

Countries take different approaches to organizing their social security inspection systems. Some countries operate under a single inspection system that covers both labour inspection and social security inspection. Other countries have separate inspectorates, as in the Lao People's Democratic Republic, that conduct their own inspections, and some countries carry out joint inspections or actions. Irrespective of the system adopted, collaboration with social security institutions and other bodies, such as labour inspection or the registration of enterprises in the Ministry of Commerce, is crucial in order to compile and compare data – and hence to design better-targeted operations. Although an ideal inspection system does not exist, all systems should strive for proper coordination mechanisms in order to achieve effectiveness and efficiency.

Employers' and workers' organizations can make significant contributions towards improving compliance at the workplace, while also contributing as strategic partners in shaping the priorities and activities of the inspectorates through sound dialogue. Collaboration between inspection systems and other public authorities can also help improve effectiveness.⁴

1 Robert Heron, *Labour Administration: An Introduction* (ILO, 1998).

2 The Labour Administration Convention (No. 150), 1978.

3 Javier Barbero, Arsenio Fernández Rodríguez and Changyou Zhu. *Guide on Labour Inspection and Social Security* (ILO, 2020).

4 ILO, *Labour Administration and Inspection: Challenges and Perspectives*, GB.309/ESP/3.

1.2. Where do social security inspectors fit within the labour administration system?

As a social security inspector, you have responsibility for ensuring compliance with social security laws – so you are definitely a labour administrator. You are a labour administrator who specializes in social security inspection, but in some districts, your role may well involve you in other areas of labour administration as well.

For example, you may have some involvement in:

- ▶ **labour relations**, because your work as a social security inspector (in close collaboration with labour inspectors) can prevent labour disputes from arising;
- ▶ **information and research**, because your work involves the collection of statistical information as part of your day-to-day operations. This information, particularly the information in the social security inspection checklist from visits and systems is highly useful for both policymaking as well as research activities.⁵

1.3. The social security inspection system

1.3.1. Conceptual framework

There is no formal or legal definition of social security inspection.– Definition may differ from country to country. However, it is possible to adapt it from a broad concept of labour inspection, as **that part of the labour administration system that is responsible for the supervision and enforcement of relevant social security legislation and policies in workplaces.**

According to Ministry of Labour and Social Welfare Decision No. 4139 on social security, social security inspection refers to the inspection that is carried out in accordance with social security-related laws and regulations.⁶

Despite the fact that social security is considered a human right, it is estimated that the majority of the world's population lacks adequate social protection coverage. One of the reasons for this poor level of coverage is the low level of compliance with existing social protection system regulatory frameworks. The mere fact that there is social security legislation does not automatically guarantee compliance with that legislation. Rather, the level of compliance is determined by a complex interplay of factors that are partly external to the government and partly a consequence of the actions of the regulatory authorities.⁷

In general terms, inspection serves to demonstrate to governments, employers, workers and the general public that society recognizes the achievement and maintenance of basic labour standards at work to be a public good, but one which duty-holders might not bring about without oversight by an independent regulator. In other words: "The existence of an efficient inspectorate provides the surest guarantee that national and international labour standards are complied with not only in law but in fact."⁸

1.3.2. Role of social security inspection

Under the Ministry of Labour and Social Welfare, the **Lao Social Security Organization** is assigned the responsibility of implementing and managing social security. The social security management organization includes the Ministry of Labour and Social Welfare centrally, the Provincial and Capital Departments of Labour and Social Welfare, and the District and Municipal Labour and Social Welfare Offices. If necessary, a social-cultural unit at the village level shall manage such affairs, according to the Law on Social Security No. 54 (2018). The

⁵ The Singapore labour inspectorate uses the data from visits to improve planning and labour inspection policy formulation.

⁶ Ministry of Labour and Social Welfare Ministerial Decision No. 4139, 2 November 2021.

⁷ Barbero, Rodríguez and Zhu.

⁸ ILO, "An Introduction to Labour Inspection", ILO Curriculum on Building Modern and Effective Labour Inspection Systems, Module 2, 2018.

social security inspection agencies include the same as social security management organizations mentioned above as internal inspection agencies, and several other external inspection agencies, such as the National Assembly, Provincial Assemblies, the State Audit Organization and so on.⁹

Ministry of Labour and Social Welfare Ministerial Decision No. 0897 (2022) defines the characteristics, roles, scope of rights and duties, organization, and operation methods of the Lao Social Security Organization, which comprises: 11 divisions at the central level (see figure 1 below); Provincial or Capital Social Security Offices; and District or Municipal Social Security Service Units. To inspect the implementation of social security for target groups is one of the rights of the Lao Social Security Organization. In this regard, the duties of the Inspection Division at the central level are:¹⁰

1. To research and draft the rules and operation manual of the Inspection Division.
2. To monitor, inspect and audit the implementation of social security activities, roles, rules, and work and budget plans of the organization at all levels.
3. To collect information and evidence for inspection and audit.
4. Resolution of disputes regarding social security activities, including collaboration with other dispute resolution stakeholders, in accordance with legal procedures.
5. To inspect the participation in social security of labour units and their employees; to inspect the payment of contributions to the social security fund; and to inspect other activities relevant to social security as prescribed in the rules and regulations.
6. To prepare inspection minutes and reports, and also to propose resolution measures for each violation uncovered.
7. To monitor, follow up and inspect the implementation of the resolution measures resulting from inspections and to report those cases that persist in their violations to the responsible organization for consideration.
8. To coordinate with the State Audit Organization to audit the implementation of inspections.
9. To review regulations, monitor implementation, and share information internally on laws and regulations that relate to social security.
10. To prepare work plans, budget plans and reports on division activities within specified timeframes.
11. To participate in meetings and provide comments for concerned activities.
12. To perform other duties as assigned.

The roles, duties and rights of provincial or capital social security offices and district or municipal social security service units shall be prescribed in a specific regulation.

The scope of the inspections of social security activities encompasses the implementation of the law on social security; the performance of civil servants and of the Lao social security office, and the development and implementation plans on social security.¹¹

Ministerial Decision No. 4139 defines the principles, regulations, approaches, procedures and measures of social security inspection, ensuring the social security law and regulations are enforced effectively, targets are inspected and any problems found are addressed properly and in timely manner.¹² Regarding the scope of social security inspections, there are three types of inspection each covering a different target group:

⁹ Law on Social Security (amended version) No. 54, 27 June 2018.

¹⁰ Ministry of Labour and Social Welfare Ministerial Decision No. 0897, 18 March 2022.

¹¹ Law on Social Security (amended version) No. 54 (2018).

¹² Ministry of Labour and Social Welfare Ministerial Decision No. 4139 (2021).

1. Civil servant scheme inspection;
2. Formal enterprise scheme inspection; and
3. Voluntary insured member scheme inspection.

These three types of inspection can be briefly described as follows:

Civil servant scheme inspection refers to inspection of the receipt of benefits by members of the civil servant social security scheme.

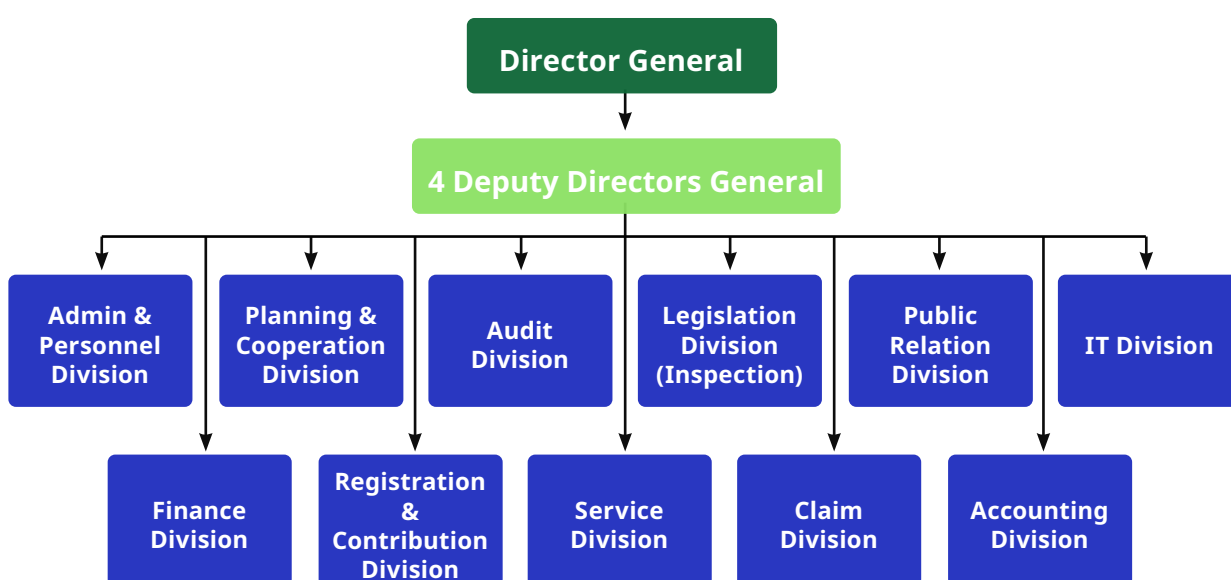
Formal enterprise scheme inspection refers to the inspection of both enterprises that are currently social security scheme members as well as enterprises that are not participating in the social security scheme. In relation to the latter, the aim of the inspection is to get these enterprises to participate in the social security scheme. As part of the inspection, enterprises are to declare the number of employees working for them, their payroll and evidence of having fully paid their contributions to the social security offices. In addition, the inspection will assess the reception of social security benefits by formal enterprise members.

Voluntary insured member scheme inspection refers to the inspection of those members who have received some level of benefits already but who have stopped paying contributions or not extended their contract with social security offices.

It is worth mentioning that in relation to the voluntary scheme, the approach of the social security inspection is:

1. To raise awareness among self-employed workers to join the scheme as voluntary insured members.
2. To check if someone who has already become a member has stopped paying contributions.
3. To check if someone who has already become a member has interrupted their social security contributions after receiving a benefit.

► **Figure 1. Organigram of the Lao Social Security Organization at the central level**



1.4. You as an inspector

As a social security inspector, there are **many things you need to know** and there are **many things you must be able to do** if you are to be effective in your work and secure compliance with the laws within your responsibility.

The following are some of the **things you need to know**:

The Lao People's Democratic Republic's new legal framework and the content and meaning of the social security laws and rules that apply.

- ▶ The Lao People's Democratic Republic's obligations concerning labour matters under international treaties. The Lao People's Democratic Republic has been a member of the ILO since 1964 and has ratified a total of 12 ILO Conventions, including seven of the ten ILO Fundamental Conventions (which cover forced labour, equal remuneration, discrimination, child labour, and a safe and healthy working environment¹³).
- ▶ The general economic framework within which Lao work establishments – large and small – operate.
- ▶ The role and functions of the Lao Social Security Organization.
- ▶ The nature and purpose of the Lao social security inspection system.

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

- ▶ How to prepare and conduct different types of inspection visits.
- ▶ How to check the compliance of inspected targets with social security law and regulations efficiently and effectively, especially on the accuracy of registration, contribution payments and benefit payments to employees.
- ▶ How to check the reception of social security benefits of members and their dependents.
- ▶ How to prepare inspection report forms upon completion of an inspection and get feedback from your superior officer.
- ▶ How to handle complaints, especially from workers.
- ▶ How to interview employees and employers.
- ▶ How to conduct meetings.
- ▶ How to communicate with people with different levels of education and different levels of knowledge concerning social security matters.
- ▶ How to provide technical information and recommendations regarding compliance issues to targeted labour units, especially to employers and employees, and how to disseminate social security benefit information.
- ▶ How to decide when to provide social security information and when to initiate other enforcement measures, such as issuing warnings or fines.
- ▶ How to effectively use the power at your disposal as a social security inspector.

¹³ The two fundamental Conventions on a safe and healthy working environment – the Occupational Safety and Health Conventions, 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health, 20026 (No. 187) – were ratified by the Lao People's Democratic Republic on 4 July 2022, and came into force on 4 July 2023.

1.5. International labour standards on social protection, social security and inspection

ILO standards on social security provide for various types of social security coverage under different economic systems and stages of development. Social security Conventions offer a wide range of options and flexibility clauses, which allow ILO Member States to attain the goal of universal coverage gradually. The range of options found in the Conventions are based on the principle that there is no single model for social security, and that it is for each country to develop the required protection.

The Social Security (Minimum Standards) Convention, 1952 (No. 102), sets out minimum standard for the level of social security benefits and the conditions under which they are granted. It covers the nine principal branches of social security, namely medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity and survivors' benefits. To ensure that it could be applied in all national circumstances, the Convention offers States the possibility of ratification by accepting at least three of the nine branches initially, and then subsequently accepting obligations under other branches, thereby allowing States to progressively attain all of the objectives set out in the Convention.

The Social Protection Floors Recommendation, 2012 (No. 202), provides guidance on introducing or maintaining social protection floors and on implementing social protection floors as part of strategies to extend higher levels of social security to as many people as possible, in accordance with the guidance set out in ILO social security standards.¹⁴

Other relevant ILO instruments on social security are the:

- ▶ Equality of Treatment (Social Security) Convention, 1962 (No. 118);
- ▶ Maintenance of Social Security Rights Convention, 1982 (No. 157);
- ▶ Medical Care and Sickness Benefits Convention, 1969 (No. 130);
- ▶ Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168);
- ▶ Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128);
- ▶ Employment Injury Benefits Convention, 1964 (No. 121); and
- ▶ Maternity Protection Convention, 2000 (No. 183).

1.5.1. ILO Labour Inspection Convention, 1947 (No. 81)

The ILO Labour Inspection Convention (No. 81) and Recommendation (No. 81), 1947, provide the international legal framework and benchmark for the development of a strong and resilient national system of labour inspection.¹⁵

According to Article 2(1) of the Convention No. 81, "The system of labour inspection in industrial workplaces shall apply to all workplaces in respect of which legal provisions relating to conditions of work and the protection of workers while engaged in their work are enforceable by labour inspectors."

However, the phrase "protection of workers while engaged in their work", as used in Convention No. 81, has to be understood in a broader manner in the context of subsequent ILO Conventions and Recommendations. Indeed, the phrase relates more specifically to social protection (including social security) and to the fundamental rights of workers throughout their employment.¹⁶

¹⁴ idem

¹⁵ ILO, *Guidelines on General Principles of Labour Inspection*, 2022.

¹⁶ Barbero, Rodríguez and Zhu.

Despite having “Labour Inspection” in its name, the standards in Convention No. 81 are still fully applicable to social security inspection. This does not matter what kind of system a State adopts to organize their social security inspection system – whether it is a single inspection system covering both labour inspection and social security inspection, or separate inspectorates, as in the Lao People's Democratic Republic.

Convention 81, Article 3(1), outlines the functions of the system of labour inspection in the following terms:

- (a) to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as the provisions relating to the hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters in so far as such provisions are enforceable by labour inspectors;
- (b) to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;
- (c) to bring to the notice of the competent authority defects or abuses not specifically covered by the legal provisions:

Convention 81 further indicates in Article 3(2):

Any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.

ILO Convention No. 81 provides a very useful framework for assessing the Lao Social Security Organization inspection system. The main articles of the Convention are as follows:¹⁷

- ▶ The purpose of social security inspection is to secure the legal provisions relating to working conditions and the protection of workers.
- ▶ Social security inspection shall be placed under the supervision and control of a central authority of the State.
- ▶ The central authority shall promote collaboration between officials of the social security inspectorate and employers and workers (or their organizations).
- ▶ Social security inspectors shall be public officials assured of stability of employment, and should be independent of changes of government.
- ▶ Social security inspectors shall be adequately trained for the performance of their duties.
- ▶ Both men and women shall be eligible for appointment as social security inspectors.
- ▶ The number of social security inspectors shall be sufficient to secure the effective discharge of the duties of the inspectorate.
- ▶ Social security inspectors shall have suitably equipped offices and transport facilities where suitable public transport does not exist.
- ▶ Social security inspectors shall be reimbursed for traveling and incidental expenses necessary for the performance of their duties.
- ▶ Social security inspectors shall be empowered to enter without previous notice at any time any workplace liable to inspection.

¹⁷ The original text of the Convention refers to “labour inspection” and “labour inspectors”, but as noted above, the standards in the Convention are equally applicable to social security inspection/inspectors. This has been reflected in the descriptions provided.

- ▶ Social security inspectors shall be empowered to carry out any examination, test or inquiry to be sure that the legal provisions are being observed.
- ▶ The social security inspectorate shall be notified of industrial accidents and cases of occupational disease.
- ▶ Social security inspectors shall not have any direct or indirect interest in the enterprises they inspect.
- ▶ Social security inspectors shall not reveal any manufacturing or commercial secrets that come to their knowledge in the course of their duties.
- ▶ Social security inspectors shall treat as absolutely confidential the source of any complaint against an employer.
- ▶ Workplaces shall be inspected as often and as thoroughly as necessary to ensure the effective application of the law.
- ▶ Inspectors and or local inspection offices shall submit periodic reports to the central authority on the results of their inspection activities.
- ▶ The central authority shall publish an annual general report on the work of the inspection service.

1.6. The role of cooperation and partnership in social security inspection¹⁸

Responsibilities concerning social security inspection are frequently split between different government ministries or departments according to specified criteria, such as geographical location, economic sector or subject matter. In all cases, it is important for there to be good cooperation between these different inspectorates, at both the national and local levels, to improve efficiency and effectiveness. Rationalizing and pooling material and logistical resources could also alleviate the chronic inadequacy of the means available to inspectorates in many countries. For this reason, some countries have now adopted so-called Integrated Inspection Systems to move towards the principle of “one enterprise: one inspector”.

The importance of cooperation between inspectorates and other government authorities and institutions is widely recognized, even though the methods and extent of such cooperation vary from country to country. First and foremost, cooperation must be established among the various services that deal with different kinds of inspection or different sectors of employment. Experience shows, however, that such cooperation is frequently nonexistent, sometimes due to the absence of any central coordinating authority.

Cooperation between different inspection services should be organized at the highest level, particularly when it comes to the joint consideration of problems which, at the national level, are bound to concern each of those services, no matter what their responsibilities may be. At lower levels, contacts may be organized on an informal basis, although it is preferable that cooperation between inspection services be institutionalized.

The respective objectives of social security and labour inspection are complementary, and the benefits of bringing them together under the authority of a single government authority are becoming increasingly evident in several countries.

Although it may be a legal obligation of the employer, worker or responsible medical practitioner to report accidents at work or cases of occupational disease to the labour inspectorate, in practice it is often the social security agencies that are the first – and sometimes the only – recipients of such notifications. It is therefore desirable that there be provisions to ensure that any relevant information on cases and conditions defined by legislation is communicated as systematically as possible to the social security and to labour inspectorates. This

18 ILO, “Cooperation and Partnership”, ITC-ILO Curriculum on Building Modern and Effective Labour Inspection Systems, Module 5, 2018.

would enable the inspectorates to identify high-risk establishments and activities, and decide on measures for eliminating risk factors. By the same token, inspectorates should be required to inform the social security and social insurance agencies of situations that pose a threat to workers' safety and health, as well as any breaches of occupational safety and health (OSH) laws that they encounter during inspection visits.

Information about OSH performance passed on by labour inspectorates will be useful in helping social security agencies to assess insurance premiums based on work injury rates. Employers who have been particularly negligent or persistent in violating laws might find themselves paying higher premiums, while injunctions could reinforce the safety and health role of the labour inspectorate. The benefits of such cooperation for all parties concerned have been more than amply demonstrated in countries where relevant measures and good practices have been implemented.

The branch of social security responsible for occupational accident and disease insurance and workers' compensation has become an important new partner in labour inspection in several countries. In France, for instance, cooperation between the French labour inspectorate and the regional health insurance funds is long-standing and effective. Similar arrangements exist in Austria and Luxembourg.

It is not only in relation to inspection activities that this cooperation can take place; shared information and databases can also be important sources for social security inspection. There should be machinery to ensure that information held for other purposes by other public authorities (for example, tax authorities or departments responsible for issuing operating licenses) is made available to the labour and social security inspectorates, in order to identify establishments in need of inspection.

In Croatia, the central labour inspection authority has vigorously proposed that the cooperation of the tax authorities should be sought in any proceedings to recover unpaid wages. Having the access to the existing labour units, the number of workers, the real salaries paid and other information available in the Registration Department of the Ministry of Commerce, in the Labour Inspection Unit, or in Tax Authorities would allow the LSSO to crosscheck the data available in its own systems, which is useful in planning inspections of establishments generally and in focusing inspection activity.

Broad cooperation is also needed between the various inspectorates and other stakeholders, that is, organizations that also have an interest in promoting decent working conditions and upholding social justice in the workplace. For instance, research and training organizations often have much data and other information that would be useful for inspectorates, and regular cooperation with such organizations brings mutual benefit. Methods of communication vary from one country to another, but the development of good IT systems and databases, as well as the publishing of annual reports, has brought significant improvements in data exchange in recent years. This is less true for developing countries, where lack of infrastructure makes it much harder to compile relevant and coherent information. However, there have been significant advances in some areas in recent years, notably as regards occupational safety and health, which bodes well for the future.

Cooperation with social research institutions and universities¹⁹

Article 9 of the Labour Inspection Convention, 1947 (No. 81), and Article 11 of the Labour Inspection (Agriculture) Convention, 1969 (No. 129), call for interaction between the inspection services and "duly qualified technical experts and specialists". This mutually beneficial relationship is indispensable for the proper functioning of inspection, and extends to cooperation with public and private institutions, universities, research centres, consultants and others. Cooperation with such organizations ensures that inspectorates are better informed on labour and social security-related matters in different fields, particularly in emerging areas of interest.

18 ILO, "Cooperation and Partnership".

Universities are also playing a greater role in the professional training of inspectors, awarding them formal qualifications in relevant topics. In Ethiopia, for example, a new degree course has been set up to train inspectors in occupational safety and health.

Technological developments render the task of social security inspection increasingly complex and represent one of the major challenges facing today's inspectors. Even when they belong to a high-performing inspectorate, it is not possible to fully keep abreast of all developments; therefore, cooperation with research institutions is of growing importance.

Module 2.

Powers of a social security inspection

Since the establishment of the Ministry of Labour and Social Welfare in 1993 and the promulgation of the Law on Social Security in 2013, the Government had gradually taken steps to enhance its provisions to achieve better coverage and increased compliance. The endorsement of the amended version of the Law on Social Security in 2018; **Ministerial Decision No. 4139 on Social Security Inspection (2021)**, and **Ministerial Decision No. 0897 on the Lao Social Security Organization's Inspection (2022)** are among the significant measures that have been taken to fulfill this purpose.

As a social security inspector, it is necessary for you to have knowledge of the Law on Social Security (2018) and of the two Ministerial Decisions, and to know where to look in these instruments to find specific details. This means that for effective inspection work you need to carry copies of relevant legislation with you for easy reference, which will also better enable you to respond to questions that may arise during the course of the inspection.

2.1. Overview of powers

The authority of any inspectorate should ensure that inspectors are given the powers of intervention necessary to carry out the duties assigned to them. The main and specific powers of intervention of social security inspectorates are:²⁰

- ▶ **supervisory powers**, including the right of free entry to establishments liable to inspection, without previous notice, and the right of unrestricted inspection;
- ▶ **injunction powers**, enabling inspectors to order the necessary measures to be taken (or to cause such orders to be issued) to remedy defects observed during an inspection; and
- ▶ **sanctioning power** to take legal action against duty-holders who are not complying with the law.

Although the authority of any labour or social security inspectorate derives from national law, the key aspects of inspectors' powers are encompassed in ILO Convention No. 81, supported by the Protocol of 1995 to the Labour Inspection Convention, 1947. According to Article 12 of Convention No. 81, inspectors shall be empowered:

- a) to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection;
- b) to enter by day any premises which they may have reasonable cause to believe to be liable to inspection;
- c) to carry out any examination, test or enquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed, and in particular:
 - (i) to interrogate, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of the legal provisions;

20 Adapted from ILO, "An Introduction to Labour Inspection".

- (ii) to require the production of any books, registers or other documents the keeping of which is prescribed by national laws or regulations relating to conditions of work, in order to see that they are in conformity with the legal provisions, and to copy such documents or make extracts from them;
- (iii) to enforce the posting of notices required by the legal provisions;
- (iv) to take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified of any samples or substances taken or removed for such purpose.

Despite the powers in Article 12 being addressed for both labour and social security inspectors, sub-article 12(c) (iv) is performed only by labour inspectors.

Article 17 of the Ministerial Decision No. 4139 grants social security inspectors the power to do the following:

1. Undertake inspection visits with suspected non-compliers at labour units or workplaces or through reviewing documents/data on a regular or ad hoc basis by informing or not informing the inspection targets in advance, and then send the inspections findings to inspected targets later.
2. Inspected targets shall provide necessary data verbally or in writing, and copy part or all of the documents for filing electronically or in hard copy;.
3. Ask questions to staff in the workplace or to anyone else outside the enterprise, if necessary.
4. Summon the inspected enterprises or individuals or concerned persons to the social security offices within a certain timeline to provide data/information, if necessary.
5. Take photos, record videos and make voice recordings to support the analysis, and use them as evidence for the next social security inspection.
6. Give warnings and impose measures to violators or non-compliers based on the laws and regulations.
7. Propose to the concerned authorities what measures are to be applied to violators.
8. Monitor compliance with inspection findings in order to enforce the law and regulations.
9. Other powers as indicated in this legislation.

Accordingly, article 18 of Ministerial Decision No. 4139 puts forward the following list of duties that follow on from the powers laid out above:

1. Develop programmes, projects, budget and implementation plans, and standard procedures on monthly, quarterly and yearly social security inspections.
2. Inform labour units or inspected targets on the dates, location and mode of inspection prior to the actual inspection visits.
3. Check the compliance of inspected targets with social security law and regulations efficiently and effectively.
4. Ensure that technical information and recommendations regarding compliance issues are provided to the targeted labour units.
5. Report the violating issues or any other issues to the board of directors of the Lao Social Security Organization and other concerning sectors;
6. Check the labour units in relation to the accuracy of their records concerning registration of employees, contribution payments, and benefit payments to employees.
7. Check the reception of social security benefits by members and their dependents.

8. Communicated with to the concerned sectors on the measures (penalty and fines), discipline or administrative penalty to be handed down to violators.
9. Consolidate all documents/evidence from the inspection visit, prepare findings and submit these for approval.

There does appear to be a possible conflict concerning duty No. 2 in article 18 (duty to announce inspection visits) and power No. 1 in article 17 (power to conduct an inspection with or without informing the target), making it potentially unclear as to when an inspector has an obligation to previously announce their inspection visit. This conflict is resolved through article 112 of the Law on Social Security (2018), which provides the different forms of social security inspection, as follows:

Article 112. Forms of Social Security Inspections

The forms of social security inspections as follows:

1. **Regular systematic inspections**, which are carried out based on the operational plan on a regular basis and at a specified time;
2. **Inspections with advance notification** which are inspections outside the operational plan in the event of necessity and of which notice shall be given in advance to the inspecting target;
3. **Emergency inspections** are urgent inspections carried out when deemed necessary without advance notification inspecting target.

Social security inspections shall be strictly done in according to the laws.

Essentially, there is a duty to inform labour units or inspected targets on the dates, location and mode of inspection prior to the actual inspection visits, unless the inspection is an emergency inspection.

It is worth mentioning that ILO Convention No. 81 states that inspectors provided with proper credentials shall be empowered “to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection” or “to enter by the day any premises which they may have reasonable cause to believe to be liable to inspection” (Article 12).

2.2. Obligations of inspectors

Besides the powers and duties of social security inspectors, article 21 of Ministerial Decision No. 4139 lists a series of obligations in the form of prohibitions that inspectors must abide by during the conduct of their activities. To this end, social security inspectors must not:

- ▶ Perform their duty unfairly, unethically or in a manner that contradicts the laws.
- ▶ Assist or protect employers or members who violate the social security law and regulations.
- ▶ Use their powers or position for the benefit of themselves, their team or their family, or take, ask for or receive bribes related to the social security scheme.
- ▶ Conceal, omit, delay or falsify any official documents.
- ▶ Disclose the confidential information of the social security inspection team.
- ▶ Allow others to use their social security inspector card and uniform.
- ▶ Perform any misconduct that will devalue the role of social security inspectors.

It is also important to mention other obligations implicit included in the national instruments or ILO Conventions:

- ▶ Social security inspectors have a duty to disseminate to stakeholders and the general public the outcomes of inspections. The results of every inspection must be entered into the system in each period so as to be disseminated for the public good – namely, the number of inspected labour units, the number of labour units that have violated the law, the number of labour units that have been disciplined, and other measures in relation to social security inspection.
- ▶ The inspectors shall not reveal any manufacturing or commercial secrets that come to their knowledge.
- ▶ In the course of their duties, and in line with Article 15 of the ILO Convention No. 81, inspectors shall treat as absolutely confidential the source of any complaint against an employer.
- ▶ Before any inspection commences, the inspector must present their credentials/ID card to the target of the inspection, according to article 30 of Ministerial Decision No. 4139 and Article 12 of ILO Convention No. 81.

Article 31 of the Ministerial Decision No. 4139 includes other obligations regarding use of social security inspectors' official identification cards:

- ▶ The ID card can be used only by the social security inspector who is the owner of the card.
- ▶ During the inspection visits, inspectors shall show their ID cards together with any relevant notices or other documents. Inspectors shall wear their inspection card at all times while carrying out inspection visits.
- ▶ In case an inspector finishes their term of being inspector, as indicated in the article 32 of this Decision, they shall return their inspection card to the LSSO.
- ▶ In the event that the inspection card is broken, damaged or lost, the inspector shall immediately report this to the LSSO so that a new card can be issued.

2.3. The role of inspectors as “educators”

An important element of an inspector's functions is assisting employers and employees to understand and comply with legislation. Workplace education can be delivered through a variety of means, including, for example, providing material during routine inspections of workplaces or delivering seminars to a wider group. For any of these activities, inspectors should always represent the position of the inspectorate as public officials and should not offer personal opinions.

Articles 116 and 117 of the Law on Social Security (2018) refer to education activities as being a measure that can be used against violators instead of disciplinary sanctions, fines, and civil or criminal charges, depending on the severity of the violation. Education (and warnings) are the preferred measures in the event of a minor offence or a first-time offence. Warnings are also an appropriate measure in cases involving employers that have not met their obligations as prescribed in the Social Security Act, such as those that have not registered with social security and have not submitted contributions to social security, or those that previously participated but stopped paying the contributions. In such cases, the employer should be given an official warning, which must be recorded by the inspector, and told to register and pay contributions within 90 days.

2.4. Consistency, proportionality, accountability and fairness

Under ILO Convention No. 81, the professional practice of being a labour/social security inspector requires inspectors to act with consistency, proportionality, accountability and fairness. But what is meant by each of these characteristics when it comes to engaging in social security inspection?²¹

Consistency – Inspectors must act consistently. Consistency of approach does not mean uniformity. It means applying the same principles to decision making and actions to achieve the outcome.

Proportionality – The measures taken to enforce a breach of the law should be proportionate to the seriousness of that breach. The history of the employer's compliance and the extent of harm that may be caused by non-compliance are relevant considerations to decide the level of enforcement to use.

Accountability – Inspectors work for the public good. Inspectors must therefore take every opportunity to help those who need, including helping employers to comply with workplace laws and helping employers understand their social security obligations and how to meet them.

Fairness / Detachment – To maintain their impartiality and independence, inspectors are forbidden to have any direct or indirect interest in the labour units/enterprises placed under their supervision.

The Lao People's Democratic Republic's present approach is more of a “**compliance approach**”, wherein inspectors seek to promote compliance with the law mainly through persuasion and influence, but with a realistic threat of sanctions if establishments fail to comply within reasonable timescales. Under a compliance approach, inspectors will need to exercise more discretion than under a “sanctions approach”, where compliance is promoted through fines, licence suspensions and other punitive measures (or the threat thereof). Inspectors will also need to spend much more time giving advice and information, and only resort to formal enforcement when the offences are serious. Inspectors will need to seek to apply the law in a reasonable manner, giving employers more time to comply where genuine efforts are being made to do so. For example, small firms in unorganized sectors may be given more time to comply with a specific breach of the law than larger enterprises with more developed administrative capacities.²²

A compliance approach sees the inspector spending most time at the bottom of the enforcement pyramid, as shown in figure 2. A sanctions approach sees the emphasis at the top, with the use of fines, withdrawal of licenses, de-registration, and even closure of establishments.²³

The overall task of the inspector is to promote compliance of the law, whether this is achieved by inspection visits, awareness-raising, national programmes and campaigns, information and publicity, or other means within the inspector's mandate. It includes giving information and advice as well as taking formal enforcement action.

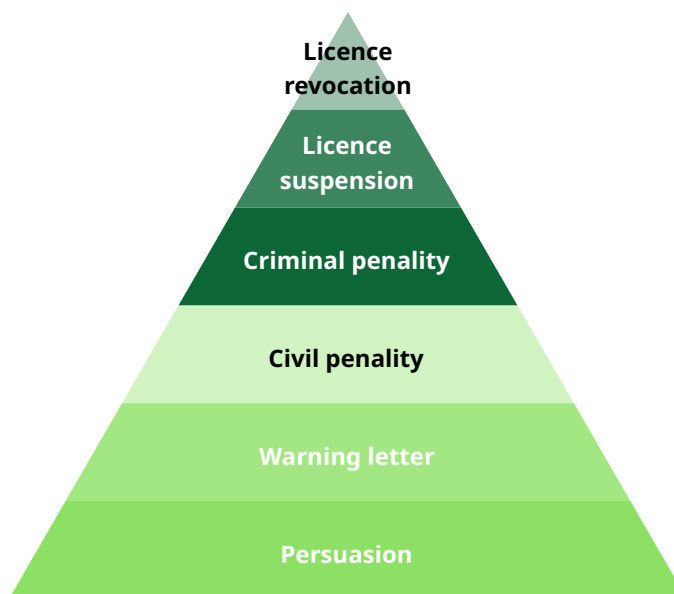
21 ILO, “An Introduction to Labour Inspection”.

22 ILO, “Policy and Planning of Labour Inspection” ILO Curriculum on Building Modern and Effective Labour Inspection Systems, Module 3, 2018.

23 ILO, “Policy and Planning of Labour Inspection”

► Figure 2. The enforcement pyramid model

The enforcement pyramid model (Ayres and Braithwaite, 1992)



Source: Ian Ayres and John Braithwaite, *Responsive Regulation: Transcending the Deregulation Debate* (Oxford: Oxford University Press, 1992).

Principles for effective inspection

1. **Independence and impartiality** – The inspectorate and inspectors should be able to undertake their work independently of improper external influence, be it political or financial.
2. **Integrity** – Adoption of the highest standards of professional integrity.
3. **Confidentiality** – Inspectors keep any information given to them in confidence.
4. **Sufficient statutory powers** for inspector to perform their function adequately.
5. **Clarity** – Provision of clear guideless on how to perform their work through inspection and enforcement policy.
6. **Discretion** – Margins of freedom and discretion for inspectors to make decisions.
7. **Social dialogue** – Engagement with the social partners at all levels. In order to have an impact, broad cooperation and partnership should be established within the Government, with the social partners and with all the key shareholders concerned (Labour Inspection, Ministry of Health, Ministry of Commerce and social partners).
8. **Follow-up visits** are also important aspects to consider for sustainable inspections

Module 3.

Preparing for inspection visits

3.1. Planning the inspection visit

One of the great advantages that social security inspectors in the Lao People's Democratic Republic have is that they can gain direct access to workplaces through their inspection visits, which means they can see working conditions as they truly are. As representatives of the Lao Social Security Organization, inspectors therefore have a key role to play in promoting compliance with relevant social security legislation on behalf of their Ministry, including advising on and enforcing the law where necessary.

Without effective inspection visits, the law would remain a dead letter and the protections afforded to workers would be an illusion. The efficiency and quality of the inspection visits depend on a number of factors that should be **carefully planned** and standardized, and inspectors should be adequately trained. Good preparation and planning of visits are essential for taking a professional approach to inspection.²⁴ Well executed inspection visits also require following set procedures based in a national inspection policy, and inspectors need to be able to competently make use of certain soft skills, such as communication, questioning and observation, to ensure their inspection visits are a success.

Planning must be viewed as essential, and should not be seen as something that might be done if time allows.²⁵ Planning includes three important elements:

1. Planning the overall work of the inspectorate or inspectorates, including their overall strategy for social security, OSH and labour inspection.²⁶
2. Planning individual staff work programmes to ensure that inspections are aligned with the inspection strategy and that standard procedures are followed.
3. The planning of inspection also requires that decisions be made as to which establishments are to be visited and when.

3.2. Targeting

Targeting is of fundamental importance if inspectorates are to improve their overall performance. Social security inspections should be properly targeted to make the best use the resources available and to ensure that policy objectives and obligations under the inspection plan are to be met. In most countries, targets derive from analysis of annual reports, which are fine-tuned on a quarterly basis based on the monitoring of social security compliance.²⁷ One of the important sources for planning is analysing inspection visit records. The social security inspectorate needs to utilize visit data to plan and to allocate national targets to each province or region. When targets are set at the central level or by provincial offices, it is crucial that all concerned are clear about their responsibilities, the performance standards to be met, the target indicators, and the timeframe. In this regard, social security inspection management staff must train all other inspectors in these processes.

²⁴ ILO, "The Inspection Visit", ILO Curriculum on Building Modern and Effective Labour Inspection Systems, Module 10, 2018.

²⁵ Annie Rice (ed.), *A Tool Kit for Labour Inspectors: A Model Enforcement Policy, a Training and Operations Manual, a Code of Ethical Behaviour* (ILO, 2006).

²⁶ Wolfgang Von Richthoven, *Labour Inspection: A Guide to the Profession* (ILO, 2002).

²⁷ Sivananthiram Aagandram, "On Planning of Inspections", paper presented at the Workshop on Labour Inspection Strategic Planning for Labour Inspection Managers, Viet Nam, 27–29 July 2015.

In addition to the inspections conducted by social security inspectors each year, inspectors also deal with complaints. A possible approach could be to use complaint information as a proxy indicator that can be used along with other indicators to target inspections.

By enhancing the quality of information collected during inspection visits, it is possible to use information technology to analyse the information so as to target inspections in places most prone to non-compliance.

3.3. Strategic planning

Strategic planning allows the longer-term strategic goals and priorities of the Lao People's Democratic Republic to be implemented. The work of the social security inspectorate must be well planned if policy objectives and obligations are to be met and if the best use is to be made of the resources available.

Planning can be done on the basis of:

1. a **defined area**, such as a district, town, village or some other area with clearly defined boundaries;²⁸
2. **types of establishments**, according to risk, size, processes, types of workers, whether the workforce is organized or unorganized, or some other factors; or
3. a combination of both.

Much inspection planning is done on the basis of a defined physical area, where an inspector is allocated a specific area and required to inspect any and all labour units/enterprises within that area. This arrangement is convenient with regard to transportation and has the added advantage of capturing establishments not already registered with the LSSO, as the inspector is required and empowered to visit any establishments where there are reasonable grounds for assuming it is liable to inspection.

The preparation of inspection work plans should be guided by the following:

- ▶ The Director of the Inspection Unit should issue general guidelines every three to six months indicating priorities for inspection work based on visit data, complaints received, media reports and other factors. This might result in priority to be given to a particular sector – such as, construction or garments – each year.
- ▶ These priorities should be taken into account when preparing monthly inspection work plans, but would also focus on establishments with a high probability of noncompliance. The monthly target for inspection visits per inspector should be made so that it allows time for other duties, including handling complaints, attending meetings, preparing reports and other matters.
- ▶ The work plan should show which enterprises are to be visited, when they will be visited and by whom. The work plan should be available in advance for each inspector, as this provides an opportunity for any inspector to declare if they have any conflicts of interest. As far as possible, for effective compliance of social security law, individual inspections need to be undertaken.
- ▶ It is not be advisable to allow individual inspectors to make their own individual work plans. Individual work plans should be prepared in consultation with between inspectors, superiors and other colleagues. The work plans should take account of other duties, public holidays, annual leave and other absences, as well as making provision for unforeseen situations. However, individual inspectors' plans should not be overly prescriptive, allowing some flexibility for unforeseen events and possible political imperatives.²⁹

²⁸ India, Government of Maharashtra, *Inspection Manual*, September 2010.

²⁹ ILO, "Policy and Planning of Labour Inspection".

3.3.1. Strategic compliance model³⁰

The traditional enforcement model focuses on enforcement, whereas the strategic compliance model focus on compliance. “Compliance” refers to the status of conformity to rules, standards and practices established by national and international standards. Enforcement is a key mechanism of government to promote compliance.

Enforcement, however, does not necessarily achieve compliance. Employers subject to enforcement actions may comply initially and then revert to non-compliance or may persistently not comply despite repeated enforcement actions. Even if an enforcement action achieves compliance in one workplace, this may not hold true in other workplaces in the same sector, even if they have the same business model or are beset with the same issue.

Compliance, likewise, does not necessarily require enforcement. All workplaces and employers have an affirmative duty to comply – and most do comply proactively – without being compelled by an enforcement action. Furthermore, not all employers are motivated to comply exclusively on the grounds of a straightforward cost/benefit analysis that weighs the cost of compliance against the cost of non-compliance (high likelihood of getting caught and/or high penalties).

Employers, as people, are different from each other and influenced by a variety of factors, such as habits, civic motivations, behaviour of peers or the desire to be industry leaders. Achieving compliance requires looking beyond the traditional enforcement model, used historically by most labour inspectorates, towards a strategic compliance model. Transformational inspectorates are pioneering the use of proactive, targeted and tailored strategies, based on data-driven diagnoses of compliance influences, which more effectively target priority issues and employers, and engage stakeholders inside and outside of government. They also tailor a combination of deterrents, incentives, awareness-raising and guidance interventions to empower workers to exercise their rights and motivate employers to meet their duty to comply.

Under a strategic compliance model, after exploring the social security inspection mandate and the relevant issues and targets, there should be an exploration of the influencers for compliance and non-compliance, including trying to identify the stakeholders that can influence compliance. Having this knowledge in hand makes it possible to map the interventions and operationalize a work plan.

It is clear that a strategy like this needs to consider cooperation with other stakeholders to promote compliance. These stakeholders might include labour inspection, the Ministry of Commerce, tax authorities, the State Audit Organization, employers’ organizations, trade unions and others. Several pieces of information collected during labour inspection activities can be valuable for verifying compliance with social security requirements, even without actually visiting the labour unit. For example, crosschecking the available information could allow for better targeting of social security inspections towards premises with a higher probability of non-compliance. One example of such crosschecking might be to check information shared by the labour inspectorate against registration information from the Ministry of Commerce

Cooperation with the State Audit Organization, including the possibility of having social security registration included as a verified auditing criterion, can enhance the coverage of the social security inspectorate.

3.4. Monthly work plans

Most inspection visits in Lao should be routine in nature and should be undertaken by inspectors on a regular, almost daily, basis. Such visits, however, must be properly planned and take place within the framework of a monthly work plan, prepared by each field office as part of a rolling three-month work schedule.

The monthly work plan will reflect the inspection priority guidelines issued by the Head of the Inspectorate in Vientiane, and the details of the actual enterprises to be visited should be planned by the director of each field office, in consultation with the inspectors.

30 This section is based on: ILO, “ILO Approach to Strategic Compliance Planning for Labour Inspectorates”, ILO LABADMIN/OSH Brief No. 2, December 2017.

The monthly work plan prepared by the field office should indicate the names and locations of the enterprises to be visited, the dates of the visits, the inspector(s) who will undertake each visit and whether each visit is to be announced or unannounced. As noted above, it is important that the monthly work plan is planned out in consultation with the inspectors to enable them to declare any conflicts of interest that they may have.

In many countries/territories, such as Hong Kong (China), Indonesia, Malaysia and Singapore, each inspection visit is conducted by a single inspector, thereby increasing the reach of the inspectorate to more establishments.³¹

3.5. Frequency of inspection visits

How often should workplaces be inspected?

ILO Convention No. 81 states that workplaces “should be inspected as often and as thoroughly as is necessary to ensure the application of the relevant legal provisions” (Article 16).

Ideally, establishments should be inspected annually, but for many countries, including the Lao People's Democratic Republic, this is not a possible standard to try to achieve, considering the resources provided, the number of inspectors and the number of premises to be inspected. This being the case, the adoption of strategic compliance planning in collaboration with other inspectorates and in partnership with other stakeholders is essential to increase the coverage and impact of inspection activity.

3.6. Preparing for inspection

Preparing for an inspection visit involves a number of steps, as follows.

Making an appointment

In the Lao People's Democratic Republic, most inspection visits are announced; that is, the labour unit is informed in advance that the inspection will be taking place. According to articles 12 and 18 of Ministerial Decision No. 4139, if the inspection visit is to be announced, the inspector should send official notice or orders and inspection plan to the inspection target in five days in advance of the actual inspection, informing the inspection target of the date, location and mode of inspection.³² The one exception to this rule is when the inspection is an emergency inspection, for which no advance notice is required.

Providing inspection targets with advance notice does run the risk that the enterprise has a number of days to “window dress” its operations and environment, but an experienced and well-trained inspector will be soon able to identify such deceptions. In many countries, the inspections are both announced as well as unannounced.³³

The day and time of the inspection visit should be confirmed with the enterprise the day before the scheduled visit. An enterprise that attempts to cancel or postpone a previously agreed visit should be advised that this is not acceptable, unless there are very exceptional circumstances (such as a fire at the enterprise, a strike, a temporary closure due to lack of orders or the death of a key official).

The purpose of making an appointment is to ensure that the inspector will be able to see the enterprise in the course of its “normal” operations, meaning that all processes will be operating and that designated managers and worker representatives will be available to participate in the inspection procedure. If the enterprise is not

31 In Spain, Portugal, Brazil, Oman and Sri Lanka, labour inspectors conduct more than 18 inspections per month.

32 Ministry of Labour and Social Welfare Ministerial Decision No. 4139 (2021).

33 The ILO Guidelines on General Principles of Labour Inspection (2022) recommends unannounced visits: “As a general rule, inspection visits should be unannounced. Legal requirements for prior notification to employers of an inspection visit or requiring consent for inspections from other governmental agencies are not compatible with the provisions of Conventions Nos 81 and 129 and should be removed” (para. 5.2.8.).

actually operating, and the reasons offered by the enterprise appear reasonable, it is better to postpone the visit and reschedule.³⁴

The **advantages of an announced** visit are that it gives the target enterprise time to:

- ▶ get together relevant information;
- ▶ greater assurance that senior managers will be present.

The **disadvantages of an announced** visit include:

- ▶ The enterprise might temporarily change the conditions at the enterprise just for the inspection visit.
- ▶ The enterprise might “misplace” or otherwise conceal some relevant documents.
- ▶ The senior management may choose to be deliberately absent.
- ▶ Workers could develop the impression that the inspectors are “in the pockets of management”.

3.7. Determining the types of inspection visits

Social security inspectors in the Lao People's Democratic Republic are normally involved in three different types of inspection visits – regular/routine visits, follow-up visits and special visits – but there are other types that may occur from time to time. This section provides an overview of the types of inspections that a social security inspector may have to undertake.

- ▶ **Regular or routine visits** where the inspection visit is undertaken at the initiative of the inspectorate as part of the day-to-day work of inspectors. These are sometimes referred to as “preventive” or “proactive” visits, and they are undertaken as part of a planned inspection programme. According to article 6 of Ministerial Decision No. 4139, for regular/routine visits, the inspection target should be informed in advance. These visits are compliance-oriented and preventive in nature, as one of their aims is to inform workers and employers on the contents of social security law, advising them on how to comply with the law and, if necessary, securing compliance with the law and its regulations through the taking of enforcement actions. Regular or routine visits normally cover the full range of matters to be inspected. They are not made in response to any complaint from a worker or employer, and they are not meant to focus on specific problems or issues.
- ▶ **Ad hoc inspections** are inspections that were not part of the inspection work plan, but are instead the result of orders, decisions, guidance or notices from the head of provincial or district administration offices or from the inspection bodies at each administrative level, or due to requests from local citizens. As with regular or routine inspections, the inspection target must be notified in advance.
- ▶ **Sudden inspections** refer to the emergency inspections carried out based on specific orders or notices from higher level authorities or a proposal from an employer or employee representatives. No advance notice is provided to the inspection target in the event of a sudden inspection.
- ▶ **Follow-up visits** refer to instances where the inspector visits the workplace to investigate whether instances of non-compliance with the law identified during a previous routine inspection have been rectified. Normally, if no remedial action is taken by the establishment after a follow-up visit, formal enforcement action through legal proceedings will follow.

³⁴ In the event of an announced inspection, the inspector will have to contact the employer to advise them that it is intended to carry out a social security inspection on their business and to make the necessary arrangements and get together the necessary documents for undertaking the inspection.

Follow-up visits are provided for in article 16 of Ministerial Decision No. 4139, as follows:

Monitoring and supervision of the compliance of inspection findings

- The inspection teams in each level shall report the inspection findings and then conduct monitoring and supervision to the inspected targets for addressing the problems found correctly and in timely manner.
- Summon the inspected targets to the offices to report on the situation in case the issue found is not addressed properly or in timely manner.
- Inspectors shall coordinate closely with the concerning authorities under the Lao Social Security Organization to follow up the compliance with the inspection findings. In case the inspected targets do not comply, inspectors shall report to higher level authorities for applying measures to the non-compliers properly and in a timely manner.

Follow-up visits in most countries are usually unannounced.

- ▶ **Special visits** are reactive and investigative in nature. They can be included under the broader category of sudden inspections. Special visits take place in response to a complaint or when performing a joint inspection with labour inspectorate focused on a specific and particular issue, such as child labour, migrant workers, a particular area of occupational safety and health, construction sites or other priority matter as determined by directors and senior officials. The investigation of a workplace accident or disease is a particular example of a special visit. Special investigative visits are generally considered to have more impact than a routine or proactive visit because the establishment is aware, at least in the case of an accident, that a problem exists that has to be addressed in order to avoid recurrences.
- ▶ **Blitz:** A blitz is a planned action that involves making inspection visits in quick succession to a large number of enterprises within a given geographical area or for a specific and well-defined topic^{3.8}. Supporting documentation and preparing materials

Once an inspection is approved, according to article 11 of the Ministerial Decision No. 4139, it is important for the social security inspector to prepare the following supporting documentation:

- ▶ A social security inspection card with the identification of the inspector;
- ▶ A copy of the Law on Social Security and related regulations must be carried all times.
- ▶ A copy of any collective agreement (sector or enterprise) between management and the relevant trade union;
- ▶ The prescribed inspection forms, such as questionnaires and recording and reporting templates;
- ▶ Checklists to assist in dealing with certain issues and for collecting information;
- ▶ The Inspection Service Instructions or any circulars or orders of the head of labour inspection on how to undertake the inspection visit or interpret a regulation;
- ▶ Any available promotional material for awareness-raising and educational purposes.

Regarding the process for securing approval of a social security inspection, article 11 of Ministerial Decision No. 4139 delineates what each body is responsible for and summarizes the procedure, as follows:

- ▶ **Central level:** The regular social security inspection team shall be approved by the director of the Lao Social Security Organization, whereas the emergency social security inspection team shall be approved by the Minister of Labour and Social Welfare.

- ▶ **Central level:** Once the inspection team is approved by the Minister of Labour and Social Welfare, there shall be another step to get approval from the director of Lao Social Security Organization before carrying out the actual inspection.
- ▶ **Provincial/municipal levels:** The regular social security inspection team shall be approved by the director of Provincial/municipal Labour and Social Welfare Offices whereas the emergency social security inspection team shall be approved by the provincial/municipal governors.

3.8. Transport facilities

Before undertaking an inspection visit, inspectors need to make sure that they have adequate and acceptable means of transport. This means:

- ▶ Checking the availability of transport vehicles.
- ▶ Not accepting transportation from the enterprise that is going to be inspected.
- ▶ Checking the availability of alternative means of travelling to and from the inspection target.

Good transportation planning allows for sharing vehicles, the concentrating of inspections within a particular area and cost savings. The cost of transport and the vehicles used must be submitted during the budget review by the Director of the inspectorate and strongly defended during the examination of the budget.

Eventually, it will be preferable for the inspectorate in each district office to have their own transportation. The inspectorate should have sufficient resources either to pay for official vehicles that inspectors can share, or to reimburse inspectors for the use of their own vehicles (cars or motorbikes). Walking, bicycles and the use of public transport are generally only suitable for inspections in urban areas, but they do provide a useful alternative to private vehicles. In rural areas, private vehicles are almost always needed in practice. In particular, inspectors should not have to rely on farmers (or others) for access to the farms or plantations.

3.9. Equipment

It is essential that prior to the actual inspection visit, the inspector should ensure that any equipment required to support the visit is available and in working order. It is expected that the inspector will bring with them a calculator, a digital camera or a mobile phone equipped with both. In certain countries, social security inspectors, for some visits, need to take with them scientific equipment to measure noise, temperature, dust levels and other indicators of the working environment. In such cases, inspectors need to be trained in the use of this equipment, and care must be taken to ensure that such equipment is properly calibrated and in good working order.

3.10. Protective clothing and equipment

Inspectors are expected to set an example to enterprises concerning the wearing of a uniform and the use of protective clothing and equipment.³⁵ As part of the preparation for an inspection visit, the inspector should ensure that they have appropriate clothing and equipment, including a hard-hat, good footwear, and ear, eye and respiratory protection, when applicable and as appropriate to the situation.

Such items are necessary for the protection of the inspector, but also send an important message to managers and workers in the enterprise. If enterprises see inspectors wearing and using protective clothing and equipment, this may serve as a reminder that hazards in the workplace should not be taken lightly. Conversely, it would set a poor example for workers and employers in, for example, a construction company, if the inspector arrives without a hard hat and appropriate footwear, or if the inspector visits a textile enterprise known to have high dust and/or noise levels without wearing the required ear and respiratory protection.

³⁵ According to article 21 of the Ministerial Decision No. 4139.

It is important to realize that Inspectors do not need protective clothing and equipment for every inspection visit. For example, such equipment would not be needed in inspection visits to retail enterprises or those engaged in hospitality services. However, inspectors must ensure that such clothing and equipment is available for visits to higher-risk enterprises, including building sites, factories, quarries and anyplace where chemicals are widely used.

3.11. Team or individual inspections

The planning for inspection work must consider whether inspectors will work alone or in teams, and if the decision is made for them to work in teams, a determination must be made on the actual number of inspectors in each team. As the inspection system moves progressively towards an integrated approach, it is expected that individual inspectors will undertake more and more inspection visits by themselves. Until this integrated inspection system is fully established, however, it may be necessary to undertake some visits on a team basis. When performing team inspections, it is important to advise the team on the method and type of inspection and to assign specific tasks for each team member.

In several countries, social security inspection visits are performed as joint inspection visits with other inspectorates (such as labour inspectors). When conducting joint inspection visits, it is important to ensure:

- ▶ that all officials know their respective roles and the roles of the other officials;
- ▶ that all officials are fully aware of the visit methodology – who needs to see whom, and so on; and
- ▶ that everyone is aware of who is leading the inspection.

3.12. A checklist to prepare for an inspection visit.³⁶

Is the visit to be announced or unannounced?	If announced, an appointment will have to be made and confirmed.
Have I checked the file for the establishment to be inspected?	You should check the date of last inspection and the establishment's compliance history, as well as other information in the system
Do I have my identification card?	In accordance with article 30 of the Ministerial Decision No. 4139. It indicates that you hold the position of an inspector.
Do I have a copy of my inspection orders?	You may be asked to show this, so you should always carry it.
Do I have a copy of relevant laws and regulations?	Always have these with you.
Do I have copies of any pamphlets, leaflets, posters and so on to give to establishments?	Carry these with you for free distribution.
Do I have the uniform and necessary protective clothing and equipment?	A uniform and good shoes are important for all inspectors.
Do I have a digital camera and a calculator?	The camera may be important for factory inspections.
Has transport been organized?	Do not use transport provided by the inspection target.

³⁶ Adapted from India, Government of Maharashtra, *Inspection Manual*.

Is this a team inspection?

If a team inspection is planned, it is necessary to decide in advance who will do what.

Do I have my mobile phone and is it charged?

Carry it with you, but switch it off when in meetings.

Do I have the template checklist to record information?

You should always carry several copies of this template.

Module 4.

Conducting an inspection visit

4.1. The various steps involved in conducting a labour inspection visit

Conducting the actual inspection visit involves a number of steps, as follows:

- ▶ Gaining entry
- ▶ Making initial contact
- ▶ Observing the workplace and checking records
- ▶ Interviewing managers and workers
- ▶ Conducting the closing meeting

4.2. Importance of convincing employers that social security inspections are good for business and productivity

The inspector should outline – persuasively and convincingly – how their work can contribute to improved labour relations, since good health (and good conditions) and good social protection for workers are good for the employer's business, as they are linked to greater productivity and therefore greater profitability. The actual message is important, but so is the way in which it is presented. It is very important to remember that inspections should always be non-confrontational. Employers must not get the impression that social security inspectors are there solely to find faults and problems.

4.3. Powers of social security inspectors

While performing your inspections, it is important to remember that, as an appointed inspector, you have been conferred certain powers under the law, which importantly include the power to secure compliance with social security legislation.

Under article 17 of the Ministerial Decision No. 4139, as a social security inspector you will have the power to:

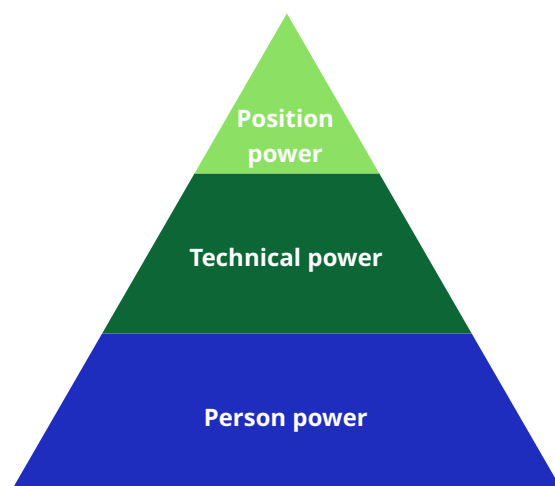
1. Undertake inspection visits with suspected non-compliers at labour units or workplaces or through reviewing documents/data on a regular or ad hoc basis by informing or not informing the inspection targets in advance, and then send the inspections findings to inspected targets later.
2. Inspected targets shall provide necessary data verbally or in writing, and copy part or all of the documents for filing electronically or in hard copy;.
3. Ask questions to staff in the workplace or to anyone else outside the enterprise, if necessary.
4. Summon the inspected enterprises or individuals or concerned persons to the social security offices within a certain timeline to provide data/information, if necessary.

5. Take photos, record videos and make voice recordings to support the analysis, and use them as evidence for the next social security inspection.
6. Give warnings and impose measures to violators or non-compliers based on the laws and regulations.
7. Propose to the concerned authorities what measures are to be applied to violators.
8. Monitor compliance with inspection findings in order to enforce the law and regulations.
9. Other powers as indicated in this legislation.

4.4. Sources of power

“Power” refers to the ability to convince and influence other people so that they do what you want them to do, or refrain from doing something you do not want them to do. Inspectors want establishments to comply with the law and have a number of sources of power at their disposal to achieve this, as shown in figure 3.³⁷

► Figure 3. Types of power held by social security inspectors



4.4.1. Position power

Your position power – or legal power as an inspector – is conferred by the law and from your appointment as an inspector under that law.³⁸ In the past, inspectors relied very much on this by placing an emphasis on prosecution, fines and other sanctions. Your powers under the law are considerable, but at the same time, you are expected to use those powers “reasonably”, which means acting with fairness, moderation and within sensible limits.

4.4.2. Technical power

You can also influence other people by drawing on your technical power. This technical power is derived from your knowledge of social security laws and regulations, your abilities and your experience – which will almost certainly be more advanced and authoritative than those of the employers and managers you encounter during inspections.

³⁷ Robert Heron, Henrik Vistisen and Kazuo Yamazaki, *Conducting Labour Inspection Visits: A Practical Guide* (ILO, 1998); and India, Government of Maharashtra, *Inspection Manual*.

³⁸ Rice, *A Tool Kit for Labour Inspectors*.

Technical power is fundamental to an approach to inspection that seeks to secure compliance based on awareness, information, education and advice. Technical power is not confined to inspectors with formal qualifications such as economists or engineers – it can apply to all inspectors whatever their education, training and background. Technical power is derived not only from formal learning, but also from accumulated knowledge and work experience.³⁹

4.4.3. Person power

This power includes the power to relate to other people,⁴⁰ which is viewed as an extremely valuable soft skill. Sometimes we can influence the behaviour of others by the way in which we explain something, which is distinct from the actual content of our message. Your work as a social security 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 power and technical power. It refers to your ability to communicate, persuade and influence, and is related to your particular personality characteristics, including your sincerity, honesty, integrity and sense of humour.

4.5. Finding a suitable balance in the exercise of powers

As a social security inspector, you need to find a suitable balance in the use of your powers. If you rely solely on your position power – and thus emphasize demands, compulsion and punishment when conducting your inspections – 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 they are 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.

In most situations, the use of technical power and person power is a good place to start, as they can serve as a basis for positive and productive engagement. But if the use of these powers fails to obtain cooperation from management, the inspector should resort to their position power, that is, the authority provided to inspectors by the law. Doing so requires that the inspector be fully conversant with the powers conferred on them by national regulations.⁴¹

4.6. The inspection visit

In conducting the inspection, the inspector should be aware of the following important issues:⁴²

- ▶ The real purpose of inspection is not to punish or initiate legal proceedings, but to secure the enforcement of legal provisions and to promote compliance with the law and ensure decent work. Depending on the purpose and type of inspection visit, an inspection must be conducted systematically and follow a routine procedure as far as possible.
- ▶ The employer or employer's representative, as well as worker representatives, should be involved during an inspection, most importantly at the closing meeting.

39 Rice, *A Tool Kit for Labour Inspectors*.

40 Rice, *A Tool Kit for Labour Inspectors*.

41 Rice, *A Tool Kit for Labour Inspectors*.

42 ILO, "The Inspection Visit".

- ▶ The inspection concerns the enterprise and its working environment, not an individual employer or manager. The inspector must put aside any subjective considerations and carry out the task of inspection as objectively as possible.
- ▶ The inspector, not the employer (or manager), is in charge of the inspection. The inspector has the backing of the law and the inspectorate as a whole in conducting the visit. This should be pointed out firmly to any uncooperative employer or employer's representative. Typically, the inspection visit will involve three main phases:
 - preliminary contact and formalities;
 - the inspection itself;
 - a closing meeting with management and worker representatives.

4.6.1. Preliminary contact and formalities.

Displaying your credentials

For larger enterprises, preliminaries begin at the gate or front desk of the factory, farm, mine/quarry, office and so on. Even where inspection is by appointment, security officers and/or receptionists can initially make the inspector's task difficult. Unannounced visits can be more complicated, particularly where enterprises follow a policy of "all visits by appointment" or "no strangers on the premises".⁴³

It is, therefore, essential for inspectors to carry **proper official identification** at all times, and assert the authority given to them by the law to undertake inspections and secure cooperation. Even if the inspector has visited the enterprise on previous occasions and is recognizable and well known to managers, suitable identification and/or authorization should be carried by the inspector at all times.

Bigger enterprises like large garment factories usually have security guards, and inspectors may come across problems when it comes to gaining entry. Security guards may try to prevent the inspector from entering, particularly if the visit is unannounced. This is one of the reasons why it is important as part of an announced visit to secure a definite appointment, so that you will be expected and your entry less likely to be hindered.

The inspector may need to show their identity card to the security guards and explain the purpose of the visit. The strategy is for the inspector to be patient, but firm. It is an inspector's right by law to enter workplaces for the purpose of inspection, and inspectors must not allow security personnel to prevent entry.

Dealing with uncooperative security personnel requires a combination of person power and position power. Inspectors should start with person power, and if that is unsuccessful, use increasing amounts of position power.

It is also possible that the inspector will have to deal with employers or managers that refuse to cooperate. The way to deal with these sorts of situations is detailed below in section 4.6.2.

Initial contact

Once the inspector has entered the workplace, they should make contact with representatives of management before doing anything else.

This phase is a critical one for a successful outcome. In this initial contact a meeting with any worker representatives needs to be arranged. The inspector should explain the purpose of the visit and the procedure to be followed during and after the visit. Even if the inspector has visited the enterprise before and is known to the management, this initial contact is still important and can be used to indicate any specific issues the inspector will focus on during the visit.

⁴³ ILO, "The Inspection Visit".

The initial contact may take the form of an actual meeting where people can sit and talk, rather than the inspector standing and talking to people in the reception area of the enterprise.

The initial meeting should be brief – 10 to 15 minutes should be sufficient. It is important that the inspector take control at this early stage in the visit, not by stressing their authority and position power, but by indicating that they want to assist the enterprise to address any problems and make improvements.

Deciding on accompaniment

Before commencing the inspection visit, the inspector should decide whether they wish to be accompanied by a representative of management and/or of the workers. This is to be encouraged for routine inspections, not only to promote cooperation between the enterprise parties (mainly management) and the inspectorate, but also to obtain access to information that might otherwise be difficult to obtain. By having informed persons present throughout the inspection, the inspector can have many of their questions answered on the spot.

In some cases, it may be preferable for the visit to proceed without a representative of management (and possibly even of the workers), for example, if the inspector wishes to ask questions of workers, who may be reluctant to respond when a manager or a worker representative is present. Inspectors should, where necessary, insist on their right to talk to workers alone, that is, in the absence of any management staff.

The inspector must take charge of the inspection

The inspector must take charge of the initial meeting and first contact. **It is the inspector's visit.** The inspector should be courteous but firm. If the managers appear to be uncooperative, the inspector should spend some time convincing them that the visit will help them to improve things in their enterprise. The inspector should stress that the aim is not to be a policeman, but rather, to improve things for the benefit of both workers and managers.

Making requests for documents and interviews

At the initial meeting the inspector should indicate the documents and records they will want to check during the visit. The initial meeting also provides an opportunity for the inspector to give any pamphlets, posters, information sheets or other documentation to managers and workers' representatives.

4.6.2. Dealing with uncooperative employers

Some employers or managers may refuse to cooperate with the inspector, or provide as little assistance as possible, or be openly hostile and, in some cases, aggressive. In such circumstances, the inspector should explain the obligations of management as duty-holders under the law, and also some of the benefits to be derived from the visit. For example, the inspector should outline, persuasively and convincingly, how their work can contribute to creating better work practices, resulting in better quality outputs and higher productivity and also improving labour relations and solving problems before they escalate into major disputes.

The message itself is important, but so is the way in which it is presented. It is very important to remember that inspectors/inspections should be as non-confrontational as possible.

If the inspector still fails to obtain the management's cooperation, they should remind the management of their legal authority to inspect the premises. Resorting to position power in this way requires that the inspector be fully conversant with their powers as conferred by national legislation. If management still refuses to give the inspector access to the premises, the inspector may indicate that they will initiate legal proceedings against the employer for obstruction.

If an inspector reaches such an impasse, it is better to break off the visit, return to the office and discuss immediately with line managers or directors (or, in their absence, with senior colleagues) what steps to take next.

However, the case should not be dropped. An immediate, swift reaction to such illegal obstruction is imperative. If necessary, and as a last resort, assistance should be sought from the police.

- ▶ Inspections should be non-confrontational as far as possible. Before uncooperative employers, inspectors could follow the following increasing stringent four-step approach:
- ▶ Inspector should explain to the management their obligations under the law, and some of the benefits to be derived from the visit.
- ▶ Inform on inspector legal authority to inspect such premises.
- ▶ Inform on the initiation of legal proceedings for obstruction.

Break off the visit, discuss immediately with managers and request the assistance from the police, if necessary.

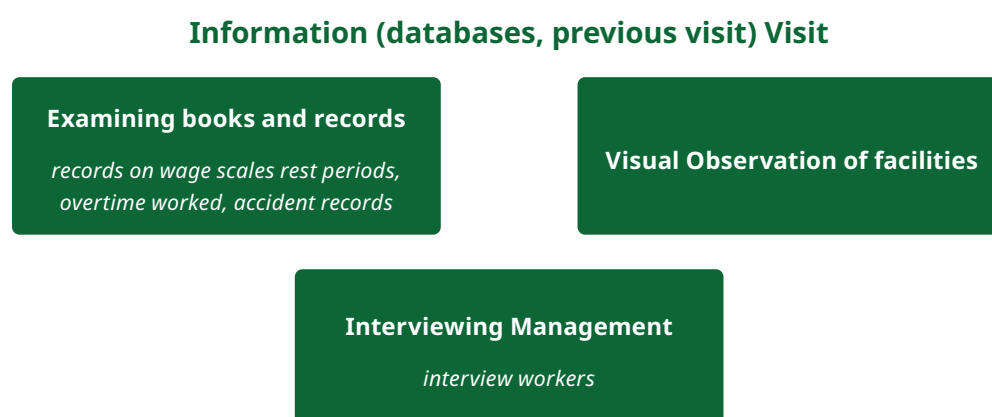
4.6.3. Getting started with the actual inspection

Once the inspector has completed the formalities with management, the actual inspection can commence. The most frequent modalities to collect information through a labour inspection are:

1. Gathering information prior to the visit.
2. Examinations of enterprises' books and records.
3. Interviewing managers and workers.
4. Visual observation of the facilities and taking photographs.

The diagram⁴⁴ below sums up the most important phases of information gathering through inspections.

▶ **Figure 4: Information (databases, previous visits)**



44 ILO, "The Inspection Visit".

4.6.4. Observation skills

For inspectors, observation skills are a powerful tool. During the inspection visit, the inspector must observe the working environment, examine records and documents, and informally interview workers and managers.

In some cases, it is best to arrange the inspection so that it follows the workflow. For a manufacturing enterprise, this means starting with the unloading and storage of raw materials, proceeding 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.

More experienced inspectors know the likely problem areas in each enterprise and would normally proceed to those areas without checking the entire workflow.

In conducting the inspection, the inspector should remember that they are in charge. The inspector should lead the inspection and not be led by management. This requires that the inspector be fully conversant with their powers conferred by national legislation.⁴⁵ The inspector should insist on seeing all parts of the enterprise they want to see, not just those parts the management would like to be seen. Ideally this can be achieved through a combination of person power and technical power, but if need be, the inspector can and should increasingly apply position pressure to assert the powers that they have under the law.

With regard to general conditions of employment, inspectors must pay attention to:

- ▶ number of workers, including the number of male workers, female workers, minors and foreign workers;
- ▶ written contracts of employment have been issued;
- ▶ number of months each worker has been with the enterprise;
- ▶ position of each worker in the enterprise;
- ▶ basic remuneration has been paid at the rates required by the law;
- ▶ payments have been made at proper intervals;
- ▶ how the workers are paid (part-time, piece-rate wages);
- ▶ deductions have been correctly calculated;
- ▶ social security contributions have been correctly paid;
- ▶ social security benefits have been paid;
- ▶ benefits in kind have been paid and accurately calculated;
- ▶ all allowances have been paid, that is, transport allowances, dependents' allowances, shift allowances, housing and clothing allowances, and so on;
- ▶ hours of work, rest periods and holidays required by law for particular occupations or activities have been complied with;
- ▶ overtime worked.

The inspector should have an inspection report form that will act as a checklist to guide the inspection visit. After the inspector gains experience, the checklist will become more of a reminder than the dominant tool for the visit.

⁴⁵ ILO, "The Inspection Visit".

4.6.5. Interviewing workers

During the inspection the inspector must talk to workers to find out any problems they may have. Inspectors sometimes find this difficult, but it is an essential part of the inspection process. The inspector should interview workers without the presence of a manager. If a manager or supervisor is present, the worker may say things to the inspector that 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 lunchtime.⁴⁶

It is always better, therefore, to interview the worker without the employer present in order to make the situation less threatening and to allow the respondent to give full answers to the questions posed. The worker may also be influenced by the employer presence and modify his answer accordingly, making it harder for the interviewer to get accurate and non-biased information.

Workers may fear being reprimanded or losing their employment, and therefore may not want to talk. You may need to interact with the worker for a longer period of time in order to develop a climate of trust.

4.6.6. Inspection of documentation

The inspection of enterprises' documentation should also focus on some of the most common problem areas. These usually relate to:

- ▶ the number of workers enrolled in social security;
- ▶ the real number of workers on the premises;
- ▶ the respective salaries workers receive, considering the insurable earnings, which comprise the basic salary, in-kind payment, overtime pay and other wages that are declared for income tax;
- ▶ underpayment of wages;
- ▶ underpayment or non-payment for overtime hours;
- ▶ excessive hours of work; and
- ▶ leave arrangements that do not satisfy the minimum standards required by law.

These records need to be checked against any comments and complaints raised by workers during the inspection visit.

4.7. Recording findings

4.7.1. Checklists

The inspector must record the findings of the inspection visit. The inspector should use approved checklist for this purpose. The checklist will guide the inspection visit and ensure that all relevant items are covered. The checklist should be completed for every inspection visit even if some items on the checklist end up being "not applicable" to a particular establishment. A summary of the information from the checklist must be sent to the head of the social security inspectorate for use in planning and the targeting of future inspections.

In general terms, a checklist is a guide used as a memory aid that helps to ensure consistency and completeness in carrying out a task. There are several reasons why checklists have become an important tool for inspectors:⁴⁷

⁴⁶ Rice, *A Tool Kit for Labour Inspectors*.

⁴⁷ Adapted from ILO, "[Tools for the Labour Inspectorate](#)", ILO Curriculum on Building Modern and Effective Labour Inspection Systems, Module 11.

- ▶ A checklist can be used as reminder of the key points for the inspection visit, in addition to helping with reporting and follow-up. Checklists are especially (but not exclusively) useful for newly recruited labour inspectors and for when new regulations have been introduced. The checklist will direct the inspector's attention to particular (often priority) topics.
- ▶ Using a checklist ensures the standardization and consistency of inspection visits. All inspectors check the same things and in the same way.
- ▶ A checklist can help with collecting information for every single provision of the legislation. Checklists can aid in the monitoring of enterprises' compliance with legislation, and are useful for making employers aware of the key points for maintaining compliance with regulations as well as their own current level of compliance. In this way, inspectors will show that they have an interest in improving the employers' business, and that the inspection is not just exclusively directed towards the identification of violations.
- ▶ A checklist allows for the collection of standardized information on specific topics that can be entered in the inspectorate's databases. Having very specific and standardized information also allows for follow-up inspections to be more easily performed by a different inspector. Such information also helps to inform future decision-making processes concerning: the targeting of enterprises for inspection, the prioritizing of issues to be inspected, and deciding the programme of information and training activities.
- ▶ Checklists allows for the process of collecting information to be performed in an ordered and structured way, avoiding repetition. General questions come first, followed by specific ones. Sometimes the reply to a general question means there is no need to address some of the specific ones, saving inspectors' time.

However, checklists frequently have the disadvantage of being generic, and so they cannot be expected to take into account the individual characteristics of different enterprises with their varying management attitudes, working cultures and environments. There is also a danger that inspectors may rely excessively on their checklists. Consequently, it is important that inspectors are sufficiently well trained that they can adapt their approach to different enterprise needs and circumstances without being dependent on checklists.

Even so, checklists can serve as useful prompts and reminders during visits, and they can also help to provide the inspectorate with more comprehensive data on particular topics.

Recording and comparing must go hand in hand. As the inspector is recording information, he should be constantly comparing what is seen and heard with the standards set out in social security laws. Once the main part of the checklist has been completed, the inspector must then compare the information.

4.7.2. Recording findings to an acceptable standard

Not only must the inspector be patient and make time to do record their findings, but these findings must be recorded neatly. It is important for the inspector to have good knowledge of the law and that a copy of relevant legislation is always on hand during the visit to clarify any legal matters where the inspector is unsure. This will facilitate the inspectors decision on what action to take in relation to any problems found. The action taken will depend on an assessment of the seriousness of the problems found, the inspector's powers under the law and, most importantly, what is likely to improve the workplace situation in a sustainable manner.

The checklist should be completed during the actual inspection visit. Otherwise, many important details of the visit may be lost. The checklist should be signed by the owner/employer or manager, and they will be given a copy that is to be kept for future reference.

Module 5.

Post-inspection responsibilities

5.1. The closing meeting

One of the key parts of the inspection process is the closing meeting, which is to be held upon completion of the inspection of the enterprise. Inspectors should not rush this meeting for any reason. By this time, the inspector will have a good idea of the important observations they will make to the management.

This closing meeting should be held with **management representatives**, and should take place before the inspector leaves the enterprise. If possible, this meeting should include some representatives of the workers.

The closing meeting provides the opportunity for an open discussion concerning the issues found during the inspection and on the best way of complying with legal requirements. **The closing meeting is vital, and it should not be rushed.**⁴⁸

The closing meeting should not be used as an opportunity to intimidate the employer and should not become a confrontation. The inspector has to balance the dual functions of enforcing the law and providing advice and information. They should clearly and objectively state what needs to be done as well as the likely repercussions of failure to comply with legal provisions within a clear time frame. However, if the situation warrants it, the deadline for implementing measures required or proposed by the inspector may be discussed or “negotiated” in return for the employer’s firm commitment to comply. Such “negotiated compliance” increases the level of acceptance of measures imposed by the inspectorate, but it has to be based on prevailing legal requirements.

Inspectors must show good judgment and communication skills both during and at the end of the inspection visit, and their ability to summarize the main findings of the inspection visit is paramount. If well done, this will both convey the importance of any remedial action required and win the employer’s and the workers’ commitment to taking such action. An inspector should also indicate whether any issues are serious enough to warrant further action, particularly if legal proceedings might be contemplated.

According to article 13 of the Ministerial Decision No. 4139, the closing meeting can be performed after: (i) analysing all of the collected information thoroughly; (ii) indicating the enterprise’ strengths and weaknesses, offences and lawfulness; and (iii) proposing appropriate measures or solutions in accordance to the law and regulations. If the inspection was handled by a team of inspectors, the lead inspector will then brief the team on the findings, and only then will the findings be submitted to the managers, labour units or inspected targets during the closing meeting. At the end of the closing meeting, the inspector and the inspected targets shall both provide their signatures to the inspection findings.

During the closing meeting, the inspector should stress that the fundamental purpose of inspection is to improve the enterprise for the benefit of both workers and managers.⁴⁹ The inspector should stress that they are trying to help enterprises to comply with the law, not to punish them.

⁴⁸ See Von Richthoven; and ILO, “[The Inspection Visit](#)”.

⁴⁹ Rice, *A Tool Kit for Labour Inspectors*.

After receiving the findings from the inspector during the closing meeting, managers, labour units or inspected targets can provide comments/feedback within a period of ten official days.

Once the closing meeting is over and the inspection is fully complete, the inspector shall send the findings, including any enforcement measures that will apply, to the approval authorities, which will consider the findings based on the social security law and regulations before reporting the inspection findings to higher-level authorities.

Upon receiving the findings from the inspector, the approval authorities⁵⁰ shall consider the inspection findings within 15 official days. Once this time has elapsed, the approval authorities shall inform the inspected target of the implementation of all measures indicated in Part 8 of the Ministerial Decision No. 4139, within seven days. If the case under consideration is difficult and relates to other sectors, an additional five official days shall be added.

5.2. Recommendations

In making recommendations, inspectors must strive to achieve consistency.

Inspection behaviour that is not consistent and not uniform leads to a loss of confidence and trust among employers and workers in the entire inspection system.

Inspectors may wish to consult technical experts and check relevant legal texts, guidelines and publications to ensure that any recommendations proposed or instructions given are correct. They may also wish to re-examine the problems identified and confirm that they are, in fact, priority matters. The inspector must make a **judgement** on how the recommendation can make improvements in a sustainable manner.

Where a problem relates to certain sections of the law or regulations, these sections should be referred to in any notification to the enterprise. Where advice or a recommendation is based on a standard or technical norm not specified by law, this distinction should be made clear.

The checklist for inspectors should have a section at the end indicating areas of good practices and non-compliance observed during the inspection. This should be divided into four parts, namely:

1. Identified good practices;
2. Main findings;
3. Recommended priority actions;
4. Other recommendations.

As noted above, a copy of the inspection checklist must be provided to the inspected establishment and also filed with the inspectorate for future reference. Having the above information recorded at the bottom of the checklist serves as a means of guaranteeing that the enterprise will receive this information and that this information will be on file, which will enable the inspector to follow up on the next visit to this establishment.

If there are no contraventions, the inspector will note this on the bottom of the checklist form, and notify the owner or manager that the establishment is compliant and the inspection visit is over.

⁵⁰ At the central level approval authority is the Director of Lao Social Security Organization or, in the case of an emergency inspection, the Minister of Labour and Social Welfare. At the provincial/municipal level the approval authority is the Director of the provincial/municipal Labour and Social Welfare Office or, in the case of an emergency inspection, the provincial/municipal governor.

5.3. Procedures for applying measures against violators

If the inspector has identified areas of non-compliance, the possible measures that can be taken towards violators, in line with the procedures prescribed in articles 14 and 15 of the Ministerial Decision No. 4139, are as follows:

1. Warning and educating measures

If the inspected enterprise expresses an intention to participate in the social security scheme, the inspector shall provide social security information to the enterprise or LSSO staff shall go to the enterprise and disseminate social security benefit information. The inspected enterprise will then have 90 days to register to the social security scheme, otherwise it will be considered as being non-compliant and the following measures shall be applied:

1. The enterprise will receive a written warning letter and encouraged to participate in the social security scheme within 90 days.
2. If the enterprise still does not comply, it will be asked to come to the LSSO to explain the reason for not participating and to find solutions together. A written record of this encounter will be generated, and an additional 90 days shall be given for the enterprise to register their participation.

2. Fining measures

If the warning and education measures are not complied with, the LSSO will apply the fining procedure and suspend the payment of benefits until the enterprise fully pays all outstanding contributions and continues making contributions into the next term. If any members (that is, workers) lost their entitlement to social security benefits because they are not registered or because contributions were not paid to the LSSO, the enterprise or employer will be responsible for compensating the workers for these lost benefits and will be required to continue the payment of contributions. The contribution paid to social security scheme will be counted per its entitlement period and the members will be entitled to the benefits through the next and following payments.

3. Prosecution

If the enterprise does not comply following the two procedures above, inspectors will collect all the documents/evidences and propose for the labour management body or the concerning government authorities to apply prosecution procedures, which may lead to penalty, fines, discipline or administrative penalty.

5.4. Reporting

An inspector conducting an inspection must prepare a written report. This will normally consist of the aforementioned inspection checklist, together with any particular comments on the inspection. This report should be placed in the enterprise file and become part of the institutional memory of the social security inspectorate.⁵¹

It should be stressed that the inspection report belongs to the social security inspectorate and is not a public document. It should also be stressed that the report is not the property of the enterprise that has been inspected. As elaborated earlier, any non-compliance issues should be communicated to the enterprise by warning letter, improvement notice, or similar communication, and not by presenting the inspection report on the visit.

As indicated earlier, inspectors should try to complete their report on each visit as soon as possible after the visit, preferably on the same day. With a pro forma checklist supported by computer technology, this should not be too demanding of inspector's time.

Inspectors must be fully aware of the importance of accurate and detailed reporting. As well as being used as a possible source of legal action against an employer, inspection reports are also used as a basis for collecting statistical information, and for writing monthly and annual reports on the activities of the Lao social security inspectorate.

⁵¹ Rice, *A Tool Kit for Labour Inspectors*.

Every inspection visit must be reported on. Even if the enterprise is in full compliance with the law, a report stating this must be completed and filed in the central database.

The inspector will need to complete different inspection reports for the different types of inspection, namely: (i) regular inspections; (ii) ad hoc inspections; (iii) sudden inspections; and (iv) follow-up inspections.

5.4.1. Annual reports

The annual reports of the social security inspectorate represent an important management tool. If well compiled, the annual report provides valuable information for planning of inspections as well as a catalogue of the overall achievements of the inspectorate, including its level of performance, its results and its successes. It also provides an opportunity to highlight key issues of future concern.

Thus, the inspectorate's annual report is a key public relations and information instrument to draw attention to so as to solicit support for the social security inspection cause.

Articles 20–21 of ILO Convention No. 81, and Articles 26–27 of Convention No. 129 can provide useful guidance on annual reports, that should be adopted. Some of the contents that could go into the annual report include:

1. the inspectorate's purpose and objectives;
2. laws and regulations falling within the inspectorate's responsibility;
3. any changes in legislation or jurisdiction;
4. major activities for the year;
5. campaigns, special action programmes;
6. number of new factories registered and factories closed down;
7. total number of inspectors, new recruits, officials who left the service;
8. number of inspections, by type;
9. number of improvement notices;
10. number of prosecutions and their outcomes;
11. accident statistics, by industry, occupation, location, number of workers affected;
12. statistics on occupational fatalities;
13. statistics on occupational diseases;
14. analysis of statistical data;
15. organizational and management structures (and any changes);
16. assessment of the year's activities;
17. targets reached (or if not, why not?);
18. obstacles and constraints; and
19. future priority issues

Module 6.

Ethical code for social security inspectors

6.1. Ethical framework

Social security inspectors are expected to provide services that promote the highest possible standard of integrity, meet community expectations and result in confidence in the inspectorate and its position of authority.⁵² In many countries, inspectors are tempted to abuse their office, which means there have to be mechanisms in place to help prevent such practices from arising.⁵³ In this regard in June 2008, the International Association of Labour Inspection (IALI) adopted a Global Code of Integrity for Labour Inspection. The aim of the Code was to underpin the professionalism of labour inspectors' work and to promote good practices by providing an ethical framework within which inspectors could operate. The Code expresses the need for both governmental and personal support for high ethical standards, and is based on six broad values:

1. Knowledge and competence
2. Honesty and integrity
3. Courtesy and respect.
4. Objectivity, neutrality and fairness
5. Commitment and responsiveness
6. Consistency between personal and professional behaviour.

The IALI Code of Behaviour for Inspectors is not concerned with the technical and legal content of inspection work, but rather with the way in which inspectors interact with the clients they serve and other government officials, and the standards of behaviour required of them to ensure that inspection services meet acceptable standards of professionalism, integrity and neutrality.⁵⁴

Inspectors are state civil servants and are thus required to conform to a code of conduct applicable to all civil servants throughout the country. The purpose of this code of behaviour for social security inspectors in Lao is to gain and retain the respect and trust of employers, workers, their respective organizations, and the wider national and international community, concerning all aspects of inspection work. The Code represents a commitment on the part of all inspectors and the Lao Social Security Organization to exercise professionalism, integrity, respect and neutrality at all times in the execution of their duties.⁵⁵

More specifically, the Code of Behaviour aims to:

- ▶ enhance the status and reputation of social security inspectors and the Lao Social Security Organization;
- ▶ encourage inspectors to achieve high standards of work performance;

⁵² IALI, *The Global Code of Integrity for Labour Inspection*, 2011.

⁵³ Rice, *A Tool Kit for Labour Inspectors*.

⁵⁴ Rice, *A Tool Kit for Labour Inspectors*.

⁵⁵ Annie Rice (ed.), *A Code of Ethical Behaviour for Labour Inspectors* (ILO, 2006).

- ▶ provide a benchmark for the evaluation of inspectors' behaviour, including self, peer and superiors' evaluation;
- ▶ encourage behaviour and practices that are consistent concerning similar circumstances and are uniform throughout the country; and
- ▶ promote social security inspection as a serious and dedicated profession.⁵⁶

The code itself, and particularly evidence of its implementation, sends an important message to the international community that the Lao People's Democratic Republic places great importance on a social security inspection system that embraces professionalism in all its dimensions.

It signifies that the country is prepared to take positive action to encourage fair and safe standards in its workplaces through an inspection system driven by the principles of good governance and its related work practices, and hopefully facilitating the ratification of ILO Convention No. 81.

6.2. General obligations

Social security inspectors are civil servants and are required to fulfill their lawful obligations to the Government as their employer, and are required to work in accordance with guiding principles of good governance. Inspectors are accountable to the Government and are required at all times to regard the public interest as paramount.

6.3. Performance of duties

The Law on Social Security and the Ministerial Decisions of Ministry of Labour and Social Welfare indicate the tasks and duties of social security inspectors, including their job descriptions. Such statements indicate the nature of the tasks to be performed but do not specify in detail the actual behaviour required of inspectors in the day-to-day performance of their designated tasks. Accordingly, social security inspectors shall work in accordance with the law. They shall obey all lawful and reasonable instructions and directives from their superiors, and exercise honesty, diligence and impartiality in their professional activities.

Accepting small gifts from the employer's production line during an inspection visit is unethical.

6.4. Respect for others

Social security inspectors must treat businesses and the public with respect by being courteous at all times and in all situations.⁵⁷ In the performance of their duties, inspectors are required to respect the rights of others and treat all persons with courtesy and dignity. This includes respecting the right of others to pose questions, make comments, give suggestions, and engage in discussions and dialogue concerning the advice and decisions inspectors may give. Inspectors shall make all decisions without malice, prejudice or personal bias.

6.5. Confidentiality and conflicts of interest

Social security inspectors are expected to perform their duties fairly and impartially, respect confidentiality to which they are exposed, and avoid conflicts of interest. Failure to behave in accordance with such values will seriously compromise the confidence and trust placed in the Lao Social Security Organization and the inspection system, and severely hamper the system's effectiveness in all dimensions.

⁵⁶ India, Government of Maharashtra, *Inspection Manual*.

⁵⁷ Canada, Ontario Ministry of Labour, Code of Professionalism.

6.6. Personal behaviour

Although social security inspectors are public officials, they also have private lives. In the course of their private lives, however, inspectors must not engage in activities that may bring the Lao Social Security Organization and its inspection system into disrepute.

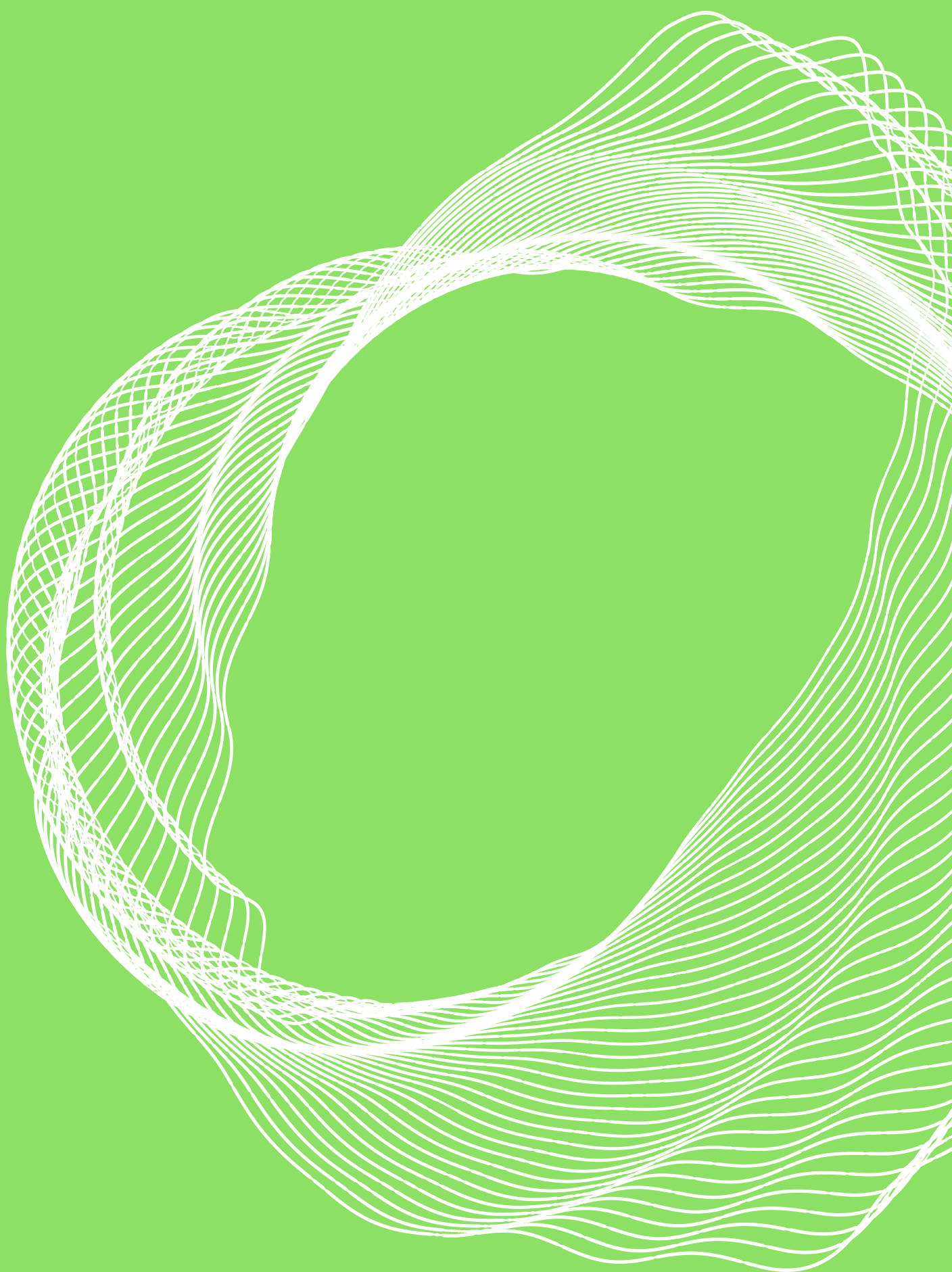
Accordingly, inspectors shall avoid behaviour and activities in their private lives that discredit the Organization and the inspection system. They should not engage in secondary employment for reward without official consent, or engage in any personal relationship that creates or appears to create a conflict with their official responsibilities.

6.7. Professional development

A professional social security inspector is identified by their technical knowledge and skills, which are of a standard sufficient to gain entry to the profession, and by the way in which they apply their position power and technical power in their day-to-day work activities. In addition, a professional inspector is expected to have the capacity to communicate effectively with people at all levels, solve problems they have not confronted before and engage in self-learning activities.

6.8. Complaints procedure

Any complaint lodged against an inspector under this Code of Behaviour will be handled in accordance with a procedure to be developed by the Lao civil service and the Lao Social Security Organization in accordance with their respective guidelines.





Guidelines for social security inspections

in the Lao People's Democratic Republic