



174/2022

CCS Insights

Labour Department

劳工部

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Malaysian Labour Law and Dispute Resolution System

CCS

职场必备法律知识:

What exactly are the powers of the Labour Department?



- Every state has a branch of the Labour department, which is part of the Ministry of Human Resources. According to the Employment Act 1955, the Department has the authority to ensure that employers comply with employment-related statutory provisions.
- To ensure that employers abide by the Act, the Labour department does the following:
 - 1) **Inspection of workplaces** is performed on a regular and random basis.
 - 2) Receives and investigates complaints from both employers and employees and takes appropriate action as a result.
 - 3) Legal action against employers who do not comply with the Act.

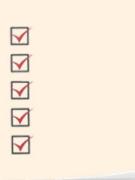
Malaysian Labour Law and Dispute Resolution System



Workplace Inspections



- Inspections of workplaces are carried out regularly and randomly by officers from the Labor Department. The Department may or may not notify the employer that they intend to perform an inspection in advance of the inspection.
 - Officers that conduct an inspection of a workplace have the power to inspect or question any person who may have knowledge of any matter relating to the Employment Act 1955 in the workplace, including ordinary employees.
 - The inspectors may also make copies of or retain any documents relating to employment, including contracts of employment, wage records, and registers required under the Act.



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Workplace Inspections



- While the inspector has the authority to interrogate any employee, he cannot order the employee to stop working unless the employee's life or property is in imminent danger of being endangered. He also has no authority to order employees to stop working if doing so would cause a significant disruption in the employer's business.
- Businesses need to cooperate and collaborate with Labour department inspectors, who are generally more than happy to assist employers that are unsure of the actions that must be followed to comply with the Employment Act.
- *Inspectors from the Labour Department must carry official identification cards, which must be given to the employer upon request for verification.*

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What Areas of Employment are likely to be Scrutinised by Labour Department Inspectors?



- 1) Contracts of employment of employees who are within the scope of the Employment Act, to ensure that the terms and conditions of employment, such as those relating to leave, working hours, and so on, are in compliance with the Act;
- 2) If notice boards have been placed outside the premises as required by Section 64 of the Act.
- 3) Whether the Department has received the names and contact information of any foreign workers who have been hired;
- 4) Maternity register, which includes information on maternity leave and maternity payments received;



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What Areas of Employment are likely to be Scrutinised by Labour Department Inspectors?



- 5) The length of the wage period,
- 6) The time of wage payment
- 7) The types of deductions taken from employees' earnings
- 8) Records of working hours (punch cards or timesheets);
- 9) Records of overtime; and other records



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Is it possible to Challenge Decisions made by Labour Department Officers?



Anyone dissatisfied with a decision issued by a Labour Officer has the right to file an appeal with the Director-General of Labour against that decision, provided that the appeal is filed within 14 days of the officer's issuance of the decision.

However, this right to appeal does not apply to decisions issued by the Labour Court.



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劳工部的权力究竟是什么？



- 劳工部是人力资源部管辖的其中一个单位，每个州属都会有一个劳动部门分行。根据《1955年劳工法令》，该部门有权确保雇主遵守与就业有关的法定条款。
- 为确保雇主遵守该法，劳工部的职责包括：
 - 1) 定期和随机进行工作场所检查；
 - 2) 接受并调查雇主和雇员的投诉，并据此采取适当行动；
 - 3) 对不遵守该法的雇主，采取法律行动。



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工作场所检查



- 劳动部的官员会定期和随机地对工作场所进行检查。在检查前，劳动部可以通知雇主他们打算进行检查，也可以不通知。
- 对工作场所进行检查的官员有权检查或询问任何可能了解工作场所与《1955年劳工法令》有关的任何事项的人，这包括一般的雇员。检查员还可以复制或保有任何与就业有关的文件，包括雇佣合约、工资记录和该法规定的登记册。



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工作场所检查



- 虽然检查员有权审问任何雇员，但他不能命令雇员停止手中的工作，除非该雇员的生命或财产面临迫在眉睫的危险。同时，他也无权命令雇员停止工作，如果这样做会对雇主的业务造成重大干扰。
- 企业需要与劳动部门的检查员合作并提供协作，因为检查员们通常都非常乐意协助那些不确定必须采取哪些行动来遵守《1955年劳工法令》的雇主。
- 劳动部门的检查员必须携带官方身份证件，在雇主提出要求时，必须将身份证件交给他们，以便核实。



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哪些就业领域可能会受到劳工部检查员的审查?



- 1) 属于《1955年劳工法令》范围内的雇员的雇佣合约，以确保就业条款和条件，如有关假期、工作时间等，符合该法的规定。
- 2) 是否按照《1955年劳工法令》第64条的要求，在场所外放置了告示牌，则必须记录下来。
- 3) 劳工部是否已收到任何被雇用的外籍员工的姓名和联系信息。
- 4) 产妇登记册，其中包括关于产假和产假工资的信息。



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哪些就业领域可能会受到劳工部检查员的审查?



- 5) 工资期的周期
- 6) 工资支付的时间
- 7) 从雇员的收入中进行的扣除类型
- 8) 工作时间的记录（打卡或考勤表）。
- 9) 加班记录；以及其他记录



劳工部官员作出的决定是否可以提出上诉?



- 任何对劳工官员所发布的决定不满意的人，都有权向劳工部总监 [Director-General of Labour] 提出上诉，但必须在该官员发布决定后的14天内提出上诉。
- 然而，这种上诉权并不适用于劳工法庭作出的决定。



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