

# The Department of Employment and Labour workplace inspection process



Labour Inspectors (Inspectors), appointed and empowered under Chapter 10 of the Basic Conditions of Employment Act, 75 of 1997 (BCEA), have the duty to ensure compliance with our various labour legislations. It is for this purpose that the Department of Employment and Labour has set up an Inspection and Enforcement Services Programme (IES) which aims to protect vulnerable workers through carrying out workplace inspections at businesses across various sectors. The IES have a duty to ensure that incidents relating to labour relations and occupational health and safety, as reported by members of the public, are registered and that these are communicated to the relevant structures within the Compliance, Monitoring and Enforcement Services sub programme for investigation.

Inspectors are also tasked with ensuring compliance with other legislation which may impact on the employment relationship including those that deal with the legal status of foreign employees and their eligibility to work in the country. Therefore, it is important for employers to ensure that foreign employees possess the requisite permission to work. Where an employer fails to do so, they may be guilty of a criminal offence and be liable for the payment of a fine or imprisonment.

**Below is a diagram which provides an overview of the inspection process and the powers conferred to the Inspectors in terms of the BCEA.**

## Pre-Inspection Phase



Inspectors may conduct inspections after having received an incident report or on their own accord through scheduled or unannounced "blitz" inspections.

[\[Section 64\(1\)\(c\)\]](#)



Inspections may be conducted without a warrant or notice and at a reasonable time.

[\[Section 65\(1\)\]](#)



Inspections may be conducted at any workplace that is not a home of the employer.  
(In the latter instance the homeowner's consent must be obtained or Labour Court must grant an order permitting access to the premises)

[\[Section 65\(1\) - 65\(3\)\]](#)



An employer may request an inspector to produce a certificate verifying the identity and authority of the inspector before granting access.

[\[Section 63\(3\)\(a\)\]](#)

# Inspection Phase



In addition to any other powers conferred upon inspectors by any other employment law:



An Inspector may require any persons to disclose information under oath or affirmation (orally or in writing) and may question and inspect any persons.

**[Section 66(1)(a) and (b)]**



Persons may be required to make their disclosures in the presence of a witness.

**[Section 66(1)(a)]**



Inspectors may request the production or delivery of any documents or records at a specified place and may make copies. Such records and documents may be removed from the premises for the purpose of making copies.

**[Section 66(1)(c) and (d)]**



The Inspector may inspect and question persons about, where necessary remove any article, substance or machinery found at the inspection site.

**[Section 66(1)(e)]**

Inspectors must return any goods which have been removed within a reasonable time.

**[Section 66(3)(c)]**



Inspectors must provide a receipt for any record, document, article, substance or machinery which have been removed from the premises.

**[Section 66(3)(b)]**



Inspections may be conducted and or questions may be asked about any work performed.

**[Section 66(1)(f)]**



An Inspector may be accompanied by an interpreter and any other person reasonably required to assist in conducting the inspection.

**[Section 66(2)]**



Inspectors may perform any other function necessary for monitoring or enforcing compliance.

**[Section 66(1)(g)]**



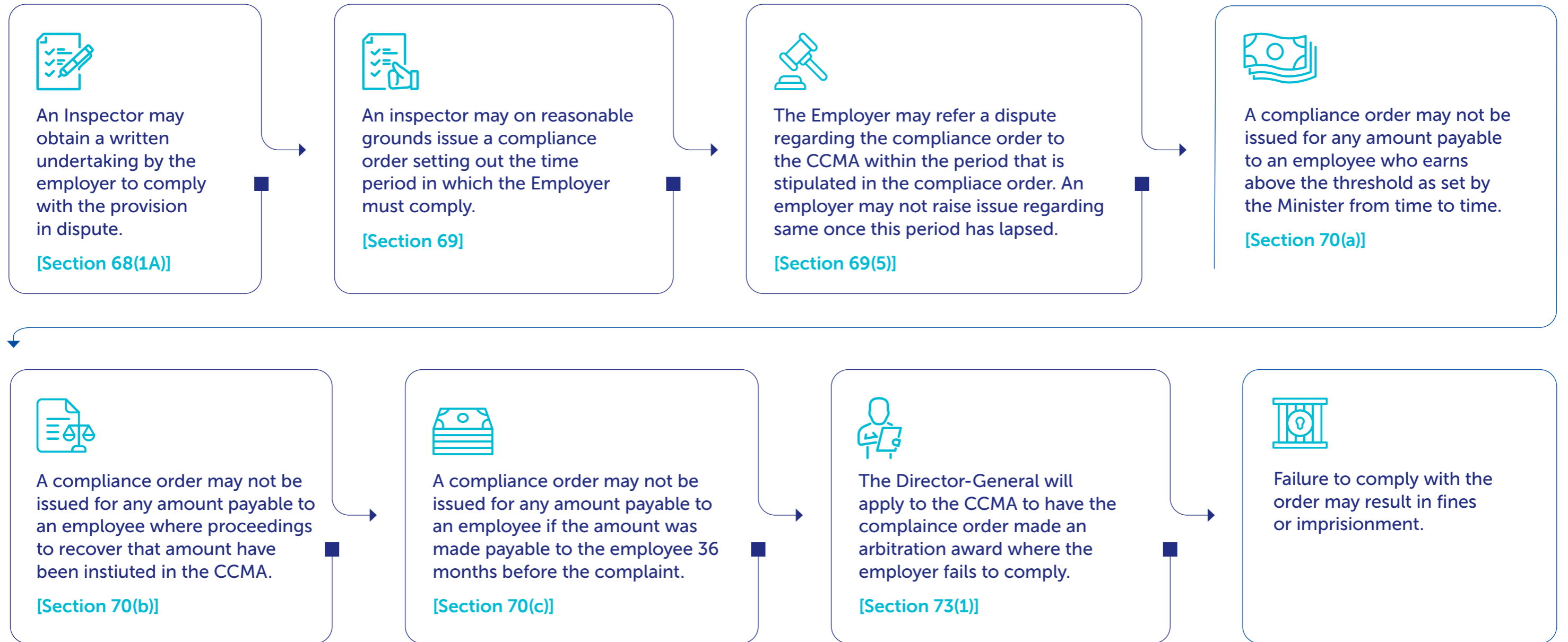
Employers and employees have the duty to co-operate with the inspectors, to answer all questions truthfully and to the best of their abilities and to assist with the inspection in so far as reasonably possible.

**[Section 67]**



# Post Inspection Phase

(in the case of non-compliance)



In its Annual report of 2023/24, the Department has indicated that it aims to ensure compliance within 14 calendar days of the inspection failing which the referral to prosecution is to occur within 30 working days of notice to the employer.

In order to minimise risk employers need to ensure that they have the necessary documentation in place in accordance with the key legislations as listed below.

- Basic Conditions of employment Act, 75 of 1997
- Compensation for Occupational Injury and Diseases Act, 130 of 1993
- Occupational Health and Safety Act 85 of 1993
- Employment Equity Act, 55 of 1998
- Unemployment Insurance Act, 30 of 1996