



GOVERNMENT OF KERALA

Abstract

Industries Department - Ease of Doing Business -Central Inspection System
-Constitution of Central Inspection Monitoring Committee and its Procedures -Orders
Issued.

INDUSTRIES (J) DEPARTMENT

G.O.(Ms)No.8/2019/ID

Dated,Thiruvananthapuram, 24/01/2019

Read 1 G.O. (Ms) No: 100/2017/ID dated 12.10.2017

2 Letter No: KSIDC/ TVM/IP- 74 / 2018 / 2171 dated 31.10.2018
from the Managing Director., KSIDC

ORDER

Government of Kerala, as part of the implementation of recommendations of Department of Industrial Policy and Promotion (DIPP), Government of India under Ease of Doing Business, has started many regulatory reforms in order to lure investments in the State. These reforms aim at bringing transparency and accountability in public services delivered to an entrepreneur for establishing and running business in the state, easily and swiftly.

Proactive measures have also been taken to streamline the procedures for granting clearances and licenses within stipulated timelines. An Online Clearance Mechanism (KSWIFT) and Common Application Form have been developed. Vide the G.O read above; the State Level as well as District Level Committees of Kerala Investment Promotion and Facilitation Cell has been constituted.

The State has been relentlessly trying to improve overall business climate in accordance with the directions of DIPP, Government of India, with regard to Business Reform Action Plan (BRAP). One of the recommendations of the BRAP 2018-19 is to establish a Central Inspection System (CIS) and an online system to carry out all the activities in a single platform.

It is found that a Central Inspection Monitoring Committee (CIMC) consisting of members from various Departments/ Agencies, Government of Kerala is required for overall monitoring of the compliance inspections into the establishments of the

entrepreneurs is done within the time frame by the Department / Agency concerned. This will help Government to reduce bureaucratic hurdles and increase transparency.

Against this backdrop, the Managing Director, KSIDC vide his letter read above has recommended to constitute the Central Inspection Monitoring Committee (CIMC). The primary aim of CIMC is to guide and improve the activities / inspections under the Central Inspection System. The MD has also furnished structure and guidelines for CIMC, features of Central Inspection System its functioning, procedure and guidelines etc.

Government has examined the matter in detail and is pleased to constitute Central Inspection Monitoring Committee (CIMC) consisting of the following members:-

1. Chief Executive Officer, Investment Promotion Facilitation Cell (Chairman)
2. Joint Director, Department of Factories and Boilers
3. Joint Director, Directorate of Urban Affairs
4. Joint Director, Directorate of Panchayats
5. Additional Commissioner, Commissionerate of Land Revenue
6. Joint Director, Directorate of Industries
7. Senior Town Planner, Department of Town and Country Planning
8. Additional Commissioner, Labour Commissionerate
9. Director, Department of Fire and Rescue Services
10. Deputy Director, Directorate of Mining and Geology
11. Chief Conservator of Forests, Department of Forests and Wildlife
12. Joint Commissioner, Department of Commercial Taxes
13. Joint Inspector General, Department of Registration
14. Joint Controller, Department of Legal Metrology
15. Chief Environmental Engineer, Kerala State Pollution Control Board
16. Executive Engineer, Kerala State Electricity Board Ltd
17. Deputy Chief Electrical Inspector, Department of Electrical Inspectorate
18. Executive Engineer, Kerala Water Authority
19. Superintending Hydro geologist, Department of Ground Water
20. Joint Commissioner, Food Safety Standards Authority of India - Kerala
21. Administrator, State Environmental Impact Assessment Authority - Kerala
22. Administrative Officer, Coastal Zone Management Authority ±Kerala

The duties, functions of the CIMS, features of CIS, Inspection Procedures, guidelines etc are annexed to this order. The operational guidelines shall be followed scrupulously and any violation in this regard will be construed as dereliction of duty and erring officers will be liable for disciplinary action.

(By Order of the Governor)

TOM JOSE I.A.S

CHIEF SECRETARY

All Additional Chief Secretaries / Principal Secretaries/ Secretaries

The Managing Director, Kerala State Industrial Development Corporation,
Keston Road, Kowdiar, Thiruvananthapuram

The Director of Industries & Commerce, Vikas Bhavan, Thiruvananthapuram

The Principal Accountant General (Audit/ A & E)) Kerala, Thiruvananthapuram.

The Managing Director, KINFRA, Thiruvananthapuram.

The CEO, Kerala Bureau of Industrial Promotion (K- Bip), Thiruvananthapuram.

The District Treasury Officer, Thiruvananthapuram

The Finance Department

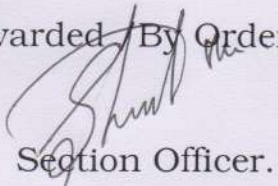
The Planning & Economic Affairs Department

Information & Public Relations (Web& New Media) Department

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Section Officer.

ANNEXURE

I The functions of the CIMC shall be as follows:

1. Discusses and approves the main directions, objectives for CIS
2. Selects/approves departmental inspections for inclusion in the CIS
3. Drafts and implements inspection reforms
4. Discusses and facilitates information exchange between departments for coordination and governance including creation/ updating of central data-base.
5. Harmonization of inspection procedures and implementation of joint/ synchronous inspections.
6. Monitoring performance of the Central Inspection System and carrying out necessary actions to improve the performance.
7. Ensuring smooth conduct of synchronized inspections
8. Resolving issues related to departmental coordination
9. To organize purposeful trainings to harmonize relations between inspectors and to implement necessary change management for raising inspectors' awareness and skills.
10. Addressing grievances of establishments and concerned departments related to Centralized inspections
11. Obtaining feedback from establishments/factories to resolve issues and to strive for simplification and regulation of inspection procedures.
12. Smooth conduct of surprise inspections based on complaints
13. The Committee meeting shall be convened once in 15 days to discuss the performance of the system and to address the issues, if any.

II. Key Features of CIS

- The system shall facilitate scheduling of inspections, uploading of inspection reports and downloading of the reports of at least past three years by the establishments.
- The system to cover the inspections as per Acts of concerned Departments/Agencies.
- Inspection by following Standard operating procedures (SOPs) and transparent checklists.
- Computerized random allocation of inspectors. Rule to ensure that the same inspector shall not inspect the same unit on two consecutive occasions. Availability of inspection reports online for viewing and downloading within 48 hours of inspection.
- Facility for third party to view and verify inspection reports on the portal.
- SMS/email alerts to be sent to the concerned inspectors indicating the establishment to be inspected. In case of joint inspections, contact details of the inspectors from other department shall also be shared in SMS/email alert to facilitate co-ordination between the departments.
- Provision to allow establishments to report unofficial visits by inspectors/ officials on the Department portal/CIS

III. Joint Synchronized Inspection

Labor Department Inspector shall carryout synchronized/joint inspection of the commercial establishment under applicable Labor laws along with the Factory Inspector who inspects the same establishment under Factories Act.

The system to cover the inspections as per Acts mentioned below:-

- a. The Equal Remuneration Act, 1976
- b. The Factories Act, 1948
- c. The Maternity Benefit Act, 1961
- d. The Minimum Wages Act, 1948
- e. The Kerala Shops and Establishments Act, 1960
- f. The Labor Welfare Fund Act (as applicable)
- g. The Payment of Bonus Act, 1965
- h. The Payment of Wages Act, 1936
- i. The Payment of Gratuity Act, 1972
- j. The Contract Labor (Regulation and Abolition) Act, 1970

A Single Joint Site inspection will be carried out by all authorities concerned such as Fire, Water and Sewerage, Electricity, Labor (such as Factory license) Department and other internal Departments responsible for granting construction permits in urban areas and IDCs

IV. Risk based selection of establishments for inspection

Establishments shall be categorized as Low Risk/ Medium Risk/ High Risk by each Department/Agency based on Risk assessment on the following criteria:

1. Number of workers
2. Nature of activity of the establishment
3. Number of contract workers
4. Status of compliance on the basis of combined annual return / online inspection (rating of compliance to be given by the department as prescribed by the Commissioner of Labor)
5. Complaints (from workers, trade unions, managements, citizens etc.)
6. Compulsory Inspections (ex: Orders of Courts and other Judicial Institutions like Lok-Ayukta, HRC etc.

The online system shall allocate establishments to the inspecting officers randomly.

V. Frequency of Inspection

The frequency of inspection may be fixed based on risk based classification as specified below-

- i. In cases of High Risk Industries / Establishment s - the inspections shall be conducted annually.

- ii. For Medium Risk Industries / Establishment s - the inspections shall be conducted only once in two years.
- iii. For Low Risk Industries / Establishment s - the inspections shall be conducted only once in three years.

VI. Random allocation of establishments and inspectors for online inspection

- The Scheduling of inspections will be done though the Online Inspection module. The number of establishments to be inspected will be calculated on monthly basis for each category (L, M, H) as per the criteria in Para IV. The establishments will be selected randomly by the computer in the first week of the month for the inspections to be conducted in the succeeding month.
- A pool of inspecting officers to be created for the entire state from the aforesaid departments/agencies.
- The allocation of inspecting officer will be done randomly from the available pool through the Central Inspection Systems:-
 - i. Inspecting officer will be in the cadre as specified in the provision of Act/Rules governing the Department/Agency
 - ii. In case of applicability of two or more Acts/Rules, the cadre of inspecting officer will be that of the highest cadre.
 - iii. In case of inspection of an establishment in the area other than his/her jurisdiction, the inspecting officer having administrative jurisdiction shall be allotted the follow up action.
 - iv. System to ensure that the same establishment is not allotted to the same inspector for two consecutive occasions.
- The number of days to be allotted in a month to the inspecting officer for carrying out inspections and number of online inspections to be conducted per day to be finalized by each Department/Agency and incorporated into the Central Inspection System. The same shall be published in the inspection portal for the information of employers.
- System randomly allocates establishments to the inspecting officers.
- A computer generated notice will be issued to the establishment for which inspection is scheduled so as to reach the establishment latest by 15th of the same month. At least 15 days clear time before the inspection will be thus ensured.
- System ensures that the same establishment is not allotted to the same inspector for two consecutive occasions.

VII. Inspection Procedure

A. Pre-Inspection

1. A quality check shall be done on the documents submitted by the applicant in terms of completeness and correctness of the information furnished with respect to the type of industry.
2. The designated inspector shall collect background information and previous compliance history (if available) of the applicant. This will enable the inspector to be familiar with the nature of operations of the industry / establishment and note down specific areas that may require more detailed investigation or verification during the inspection process.
3. The inspector shall obtain the following information about the industry from the Regional Office or the Head Office:
 - ▷ Location of the industry / establishment
 - ▷ Past clearances issued to the industry / establishment
 - ▷ Previous inspection reports
 - ▷ Notices issued to the industry / establishment for non-compliance and track record of the industry / establishment with respect to carrying out orders from the Department
 - ▷ Line of activity of the industry / establishment
 - ▷ Details of the various process of industry / establishment viz., manufacturing, sales etc.

B. Inspection

1. Inspection shall be made during regular working hours of the establishment / industry except when special circumstances indicate otherwise.
2. At the beginning of the inspection, the inspector shall locate the occupier / representative of the occupier / person in charge of the establishment / industry and inform about the purpose of the proposed inspection.
3. The inspector shall inspect all the aspects as required based on the mandated Acts / Rules.
4. The inspector should collect photographic evidence, if any non-compliance has been observed.
5. The inspector may seek information / clarifications or documentary evidence from the representative or occupier to ascertain the correctness of the application.
6. If any representative / occupier of the establishment / industry willfully delays or obstructs the inspector in carrying out inspection, the same shall be recorded in the inspection report for taking further necessary action in the matter.
7. At the end of the inspection, the Inspector may inform the representative of the establishment / industry about apparent non-compliance observed during inspection so that industry may initiate necessary corrective action wherever required.

8. However, every office integrated in the CIS shall carry out surprise inspections based on complaint with specific permission from their respective head of the office.

C.

Post Inspection

1. Inspection report should be submitted within 48 hours of completion of the inspection and a copy of the same should be issued to the establishment / industry.
2. All observations of the inspection along with photographic evidence of non-compliance should be included as part of the report.
3. Non-compliant areas should be listed in the report along with additional measures that need to be taken by the applicant to ensure compliance.
4. Non-compliant areas should be listed along with the relevant section of the Act/Rule or G.O. which it is violation of.

VIII. Establishments exempted from online inspection

5. Start -up Establishments for a period of 3 years from the date of commencement of work / business.
6. Low risk industries with a history of satisfactory compliance from Labor compliance inspections, or allow self-certification in lieu of conducting physical inspections under all Labor laws and environment/ pollution laws.
7. Exempt Green and White industries with a history of satisfactory compliance from environmental compliance inspection and allow self-certification (in lieu of conducting physical inspections)
8. Establishments under SEZs / EPZs.
9. Establishments submitted combined annual return and having no violations consecutively for 3 years.
10. Any other establishment specifically exempted by the Govt.
11. Establishment inspected in the first year will be exempted for the next 2 years for inspection by any inspecting officer.

IX. Third Party Certification

System shall allow grant of approval to Low Risk buildings based on third party certification (during building plan approval and/or construction and/or completion stage) of structural design and architectural drawings across all urban areas and IDCs

A list of Low Risk buildings shall be notified by the Department of Local Self Government from time to time based on the risk criteria.

X. Notice of Deficiencies and Compliance

In case of noticing defects in the compliance of any of the Labor laws, the Inspecting officer will issue a notice to the Employer through the online Inspection Module. The Employer will be required to take corrective action and upload compliance report within 15 days. In case the establishment is found to be complying with the regulations, the inspections will be categorized as satisfying and the issue closed.

XI. Scrutiny of Compliance Report and Penal Action

The inspecting officer will scrutinize the compliance report to see if the compliance is made. Immediate and effective follow up action on the violations / irregularities shall be ensured if the employer fails to comply even after providing opportunity as in Para IX by the inspecting officer as the case may be. If the compliance report is found to be satisfactory, then the establishment will be categorized as compliant and the issue closed.

XII. Complaints

In case any complaint is received alleging violation of any law / false declaration under Self Certification Scheme by any Employer / Establishment, such cases will be referred to the Central Inspection Monitoring Committee who will decide on the further course of action.