

**Chapter-4**  
**Compliance with Health,  
Safety Norms and Inspection**



## Chapter-4

### Compliance with Health, Safety Norms and Inspection

The Building and Other Construction Workers (BOCW) Act aimed at safeguarding the safety, health, and working conditions of building and construction workers at construction sites. The absence of a mechanism for reporting incidents at site, failure of the Board to provide financial assistance in case of injury or loss of life, not conducting of inspections and non-compliance of health and safety norms are the shortcomings that are highlighted in the chapter.

#### 4.1 Occurrence of incident on construction site

##### 4.1.1 Reporting of incidents and provision of financial assistance in case of onsite injury and loss of life

According to Rule 210 (1) of the BOCW Rules 2005, notice of any accident on the construction site which either causes loss of life or disables a building worker shall forthwith be sent by the employer to the Assistant Labour Commissioner/Deputy Labour Commissioner/Additional Labour Commissioner having jurisdiction in the area in which the establishment is located, and to the Board with which the building worker involved in the accident was registered as a beneficiary. Under Section 22(1) of the Act, the Board may provide immediate assistance to a beneficiary in case of an accident.

During the audit of the UKBOCW Welfare Board, Audit noticed that no incident was reported on construction sites between 2017-18 and 2021-22 and consequently, no financial assistance was provided to any worker for onsite injury or death. However, as per reports published in major media publications, there have been instances of onsite death and injury in Uttarakhand between 2017-22 as detailed in **Table-4.1**.

**Table-4.1: Details of accidents/incidents at construction sites as per media publications**

Source	Date	News Headline	Deaths	Injuries
ANI tweet and Times of India <sup>1</sup>	21 Dec 2018	According to Rudra Prayag DM, seven bodies have been recovered from the site and five labourers have been critically injured.	7	5
NDTV	07 Mar 2019	Two Construction Workers from Bihar Buried Alive in Uttarakhand Landslide	2	NA
The Hindu	24 Aug 2020	Three earth moving machine operators killed in a landslip on Uttarakhand highway	3	NA
Newsday Express	23 Feb 2022	There are still traces of the Rishi Ganga accident. Two bodies were found in cleaning tunnels	2	NA
<b>Total</b>			<b>14</b>	<b>5</b>

The Board stated (May 2023) that due to the absence of monitoring of construction activities and the absence of a robust reporting mechanism, incidents could not be reported. However, in the Exit Conference (October 2023), the Secretary, Labour Department replied that they could go for group insurance in case of an accident at work site.

<sup>1</sup> Corroborated by First Information Report of the Police.

#### **4.2 Failure to provide medical facility**

Section 22 (1) (f) of the BOCW Act mandates that the UKBOCW Welfare Board may meet such medical expenses of a beneficiary or such dependent as prescribed by Rules made by State Government/ Central Government.

During scrutiny of records, it was noticed that the UKBOCW Welfare Board made provision of medical facilities on the pattern of Employees State Insurance (ESI) which was not in consonance with the BOCW Rules made by the State Government. However, this scheme was against the BOCW Act.

The Board replied (May 2023) that it is an autonomous body and works as per BOCW Act. The reply is not acceptable as the Board has to take approval from the Government before making new welfare provisions.

#### **4.3 Establishment inspections**

As per Rule 298(2), an Inspector of Labour Department, at a construction site of a building or other construction work within local limits for which he is appointed, can issue a show-cause notice or warning to employers regarding the safety, health, or welfare of building workers.

Audit of test checked entities<sup>2</sup> revealed that in US Nagar district, only 16 inspections were carried out against 2,018 construction works while in Dehradun district no inspection (Inspection details discussed in *paragraph 4.4*) was conducted against 15,637 construction works during the period 2017-22, to ensure safety measures and facilities for workers at construction sites.

On this being pointed out, the Deputy Labour Commissioner, Dehradun justified its inaction on the basis of Government Order<sup>3</sup> in 2018. The response is not justified as the order pertains to inspections of industries and is not applicable to inspections of construction works under BOCW Act/Rules. The sites where construction work is ongoing should have been inspected to ensure wages, working conditions, safety, health, and welfare measures of the building construction workers.

#### **4.4 Inspection System**

Audit reviewed 16 inspection notes and found following deficiencies:-

- i. Incomprehensive inspection notes:** Inspection notes did not contain the information about assurance of available facilities, condition of service and medical facilities prescribed under Sections 28 to 37 and 44 to 46 of the BOCW Act. Further, inspection notes were not comprehensive enough to give details of the establishment, estimated cost, cess and facilities provided to workers.
- ii. No information regarding registration of workers:** Total 248 workers were deployed in these inspected construction works. No comment was found in the inspection notes regarding the status of worker's registration.

---

<sup>2</sup> As per table no 2.1.

<sup>3</sup> Uttarakhand Government had issued GO (November 2018) regarding surprise inspections based on complaints received and subject to approval from the Labour Commissioner/Chief Tnspector of factories, Uttarakhand.

- iii. **Non-maintenance of records:** No employer had maintained related records i.e. wage register, pay slip and attendance register which was also a violation of the BOCW Act.
- iv. **Evasion of cess:** Point regarding non submission of cess was mentioned only in one case.
- v. **Non-registration:** None of these construction works got registered as establishments even after inspection.
- vi. **No penalty levied:** Despite multiple contraventions under the BOCW Act and Rules made thereunder, no penalty was imposed on any establishment.
- vii. **Refusal to produce records:** Under Section 49(2) of the BOCW Act, whoever wilfully refuses to produce any register or other document as per the demand of an Inspector, in pursuance of this Act shall be punishable with imprisonment for a term which may extend to three months, or with a fine which may extend to one thousand rupees, or with both. In Inspection note number 629, it was mentioned that records were not produced on demand which violates section 49(2) of the BOCW Act i.e., wilful refusal to produce documents on demand of the Inspector. No action was initiated against the employer as per the BOCW Act.
- viii. **Compliance of inspections not monitored:** Neither the recovery of cess nor the registration of 16 inspected construction works was done. Further, no action was taken on any observations mentioned above, which indicated the absence of a mechanism for follow-up of inspection notes.

In response to above, no justified reasons were furnished by the auditee entities.

#### 4.5 Absence of compliance regarding working conditions, health and safety norms on construction site

A joint inspection of 19 establishments (*Appendix-2.1*) was conducted by Audit with test checked working agencies<sup>4</sup> and the Labour Department to check the compliance with the BOCW Act and Rules made thereunder. The observations of the joint inspection are provided in **Table-4.2** below.

**Table-4.2: Details of compliance with health and safety norms**

Particulars	Description	Compliance (Out of 19)
Registration	Registration of construction or building works as establishment was to be done as per Section 7 of the Act.	None <sup>5</sup>
Abstract of the Act	The abstract of the Act and Rules made there under in English, Hindi and Language understood by most workers was to be displayed at the work site. [As per Rule 241 (5)]	None
Notice	A copy of the notice mentioned above was to be sent to the Inspector concerned. [As per Section 46 and Rule 238 (2)]	Only in one case such notice was sent.

<sup>4</sup> Except MDDA.

<sup>5</sup> Only one applied for registration but not registered till the date of joint inspection.

Particulars	Description	Compliance (Out of 19)
Service Certificate	Service certificate was to be issued to building workers on termination of their services in form XXIV. [As per Section 30 and Rule 241 (2) (b)]	None
Annual Return	Return regarding establishment [As per Rule 242]	None
Registers	The employer had to maintain a register of building workers in Form XV. [As per Section 30(1) and Rule 240]	Seventeen establishments (89.47 per cent) did not maintain registers, while records of two establishments (10.53 per cent) were not available on site.
Latrine and Urinals	The employer had to provide latrines and urinals at the prescribed scale or the prescribed type. [As per Section 33 Rule 243]	The facility was not available in eight (42.10 per cent) establishments. Other establishments had the facility but not as prescribed under the Rules.
Residential Accommodation	The employer had to provide residential accommodation free of cost and within the work site to building workers as prescribed. [As per Sec 34(1) & 34(2)]	Seven establishments (36.84 per cent) did not provide residential accommodation to building workers.
Drinking Water	The employer had to provide wholesome drinking water [ As per Sec 32(1)]	Five establishments (26.31 per cent) did not provide wholesome drinking water.
Medical Examination	The workers were to be medically examined periodically. [As per Section 40(1)& 40(2)(u) and Rules 223 (a) (II) & (iii) and 223(c)]	In 17 (89.47 per cent) establishments, workers were not examined periodically.
First Aid Boxes	A sufficient number of first aid boxes equipped with articles specified in schedule III of the Rules are maintained/provided. [ As per Section 40(1)& 40(2)(t) and Rule 231 (a)]	First aid boxes were not found available in two (10.52 per cent) establishments, while 17 (89.48%) establishments had first aid boxes but not as specified.
Protective Apparel	The employer provided the head protection and other protective apparel as prescribed. [As per Section 40(1) & 40(2) (u) and Rule 46(1) & 46(2)]	Eight (42.11 per cent) employers did not provide head protection
Health and Safety Policy	Fifty or more building workers are employed in the establishment, the employer has prepared Health and Safety Policy duly approved by the Chief Inspector. [As per Section 40(1) & 40(2) (r) and Rule 39].	Three (15.79 per cent) establishments had 50 or more building workers employed but none of them prepared a health and safety policy duly approved by the Chief Inspector.

**Source: OIOS DCTK-994.**



**Unhygienic Drinking Water facilities at work site**



**Accommodation provided lacked prescribed minimum facilities such as separate bed, storage for each worker etc.**



*Workers working without safety equipment*



*Defunct Latrine and urinals at worksite*

In view of deficiencies pointed in photographs /joint inspections, penalty was required to be imposed on the concerned employers. However, the Labour Department did not impose any penalty on any employer for non-compliance of health and safety norms and did not conduct sufficient inspections.

In its reply, working agencies admitted that prescribed norms could not be complied because adequate mechanism was not devised for implementation of the BOCW Act.

#### **4.6 Conclusion**

The inadequate inspections conducted by the Labour Department to enforce health and safety norms at work sites is a significant shortcoming. Further, the failure to ensure compliance with inspections pertaining to working conditions, health, and safety norms underscores a systemic issue that jeopardizes the welfare of workers on construction sites. No penalties were imposed on employers for non-compliance with these essential norms. This lack of enforcement not only undermines the credibility of the Labour Department but also sets a precedent that may encourage negligence by the employers in the implementation of the statutory norms.

#### **4.7 Recommendations**

**Following recommendations may be adopted:**

- 1. The UKBOCW Welfare Board should devise procedure for reporting of occurrence of incidents at construction sites and provide immediate assistance to workers in case of loss of life or injury;*
- 2. Labour Department should conduct effective and comprehensive inspections to ensure health, safety and working conditions at construction sites with adequate and prompt follow up. Penalty for non-compliance needs to be imposed on employers.*

