

**LAW OF MONGOLIA
ON SENDING LABOURFORCE ABROAD AND RECEIVING
LABOURFORCE AND SPECIALISTS FROM ABROAD**

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Ulaanbaatar

**CHAPTER ONE
General provisions**

Article 1. The objective of the law

1.1 The objective of this law is to regulate relations concerning employment of a Mongolian citizen abroad and a foreign citizen in Mongolia /hereinafter referred to as sending labourforce abroad and receiving labourforce and specialists from abroad/ and protection of their rights and interests.

Article 2. Legislation on sending labourforce abroad and receiving labourforce and specialists from abroad

2.1 Employment promotion legislation shall consist of the Constitution of Mongolia¹, the Labour Law², the Law on legal status of a foreign citizen³, the Social Insurance Law⁴, this law and other legal acts issued in consistence with them.

2.2 If international treaty to which Mongolia is a party stipulates otherwise than in this law, the provisions of the international treaties shall override.

Article 3. Prohibition of employment abroad

3.1. Employment abroad is prohibited in the following cases:

3.1.1 foreign citizen, stateless persons, and persons under age of 18,

3.1.2 jobs prohibited at international level, including those dealing with poisonous, explosive chemical and radioactive, biologically active substances, producing and selling of narcotics and toxic substances.

¹ Constitution of Mongolia, "Turiin medeelel", No.1, 1992

² The Labour Law, "Turiin medeelel", No.25, 1999

³ The Law on legal status of a foreign citizen", "Turiin medeelel", No. 2, 1995

⁴ The Social Insurance Act, "Turiin medeelel", No.8, 1994

CHAPTER TWO

Coordination of activities of sending labourforce abroad and receiving labourforce and specialists from abroad

Article 4. Competency of a state central administrative organisation in charge of labour affairs

- 4.1 State central administrative organisation in charge of labour affairs is entitled to the following competencies:
 - 4.1.1 Formulating and ensuring implementation of policies and directions on sending labourforce abroad and receiving labourforce and specialists from abroad in coherence with policies on employment and investment structure;
 - 4.1.2 Granting special permission to deal with intermediary services of sending labourforce abroad and receiving labourforce and specialists from abroad to economic entities and citizens, granting, abstaining, prolonging and annulling employment permission to a foreign citizen in Mongolia;
 - 4.1.3 Monitoring upon fulfillment of duties and obligations indicated in agreements regarding social protection of those, being employed abroad and from abroad in Mongolia on the basis of a contract of employment, taking measures to eradicate violations revealed in the course of their implementation;
 - 4.1.4 Fixing and ensuring the approval by the Government of a percentage of labourforce and specialists to receive from abroad in the total number of employees taking consideration of the total number of employees in sectors and organisations of economic activity;
 - 4.1.5 Coordinating activities of a state central administrative organisation, the government agencies and non-governmental organisations regarding sending labourforce abroad and receiving labourforce and specialists from abroad, concluding agreements with relevant foreign governmental and non-governmental organisations;

Article 5. General conditions in agreement on sending labourforce abroad

- 5.1 Economic entity, organisation and citizen /hereinafter referred to as "organisation" may conclude an agreement on employment, industrial training and acquiring jobs in foreign countries for a citizen of Mongolia for purpose of upgrading knowledge, and vocational skills of a national labourforce.

The agreement should comply with international legal standards, provisions of agreement concluded between two countries and legislation of these countries.

5.2 Conditions of agreement on sending labourforce abroad regarding labour relations and social protection of a citizen to be employed abroad must be at no lower level than standards indicated in legislation of labourforce receiving country.

5.3 Agreement on sending labourforce abroad must clearly indicate the following conditions:

5.3.1 Name of a country, city and organisation to be employed on the basis of a contract of employment;

5.3.2 Jobs and professions, titles and positions, number of labourforce;

5.3.3 Length of an agreement, its expiration and annulment terms;

5.3.4 minimum wage of employees;

5.3.5 occupational safety and health conditions work and holiday regime;

5.3.6 accommodation, and social and welfare issues;

5.3.7 methods and types of settling disputes to arise from the implementation of agreement and labour dispute,

5.3.8 social and health insurance, pension, benefit, other relieves;

5.3.9 transportation cost and terms;

5.3.10 Possibilities of transferring wages and other legal income from certain country.

Article 6. Sending labourforce abroad

6.1 Activities of sending labourforce abroad must be dealt with economic entity, organisation and citizen being granted special permission to deal with intermediary activities for foreign employment /hereinafter referred to as mediation permission/ by a state central administrative organisation in charge of labour affairs.

6.2 Government member for labour affairs grants mediation permission. Certificate of mediation permission is an official document with specific sign and number and signed by the Government member. The certificate indicates name of organisation and of labourforce receiving country, number of decision of granting mediation permission and enforcement length of a permission.

6.3 Organisation submits application requesting mediation permission of sending Mongolian citizen for employment abroad to a state central administrative

organisation and encloses the following documents to the application upon concluding agreement on sending labourforce abroad with foreign organisation.

- 6.3.1 agreement on sending labourforce abroad concluded with foreign organisation;
 - 6.3.2 copy of registration certificate of economic entity confirmed by notary;
 - 6.3.3 identification from taxation office on the possibility of an organisation to ensure requirements applied by relevant legislation of Mongolia and operate normally;
 - 6.3.4 official letter from a certain organisation indicated purpose and directions of undertaking mediation service, obligations, responsibilities of and requirements upon a citizen to work abroad;
 - 6.3.5 selection procedure of a citizen to work abroad, draft agreement to be concluded between them and intermediary organisation, and decision made on fixing up amount of mediation payment;
 - 6.3.6 identification from relevant bank on financial capability of an organisation
 - 6.3.7 If the case necessary, identification from embassy, diplomatic representative offices in certain country and other relevant organisation;
- 6.4 Mediation permission is granted for up to three years' period on the basis of agreement on sending labourforce abroad and may be extended upon organization's request, activity report and results. A Government member for labour affairs makes decision on the extension of length of mediation permission.
- 6.5 In the case of sending labourforce to other country other than indicated in the mediation permission, Government member for labour affairs makes decision on making amendments to mediation permission on the basis of agreement concluded with economic and organisation of a certain country.
- 6.6 In the case of making agreement on sending labourforce abroad in breach with legislation of Mongolia, and not meeting requirements indicated in 5.3 and 6.3 of this law, a refusal to grant and extension of mediation permission and make amendments to it within 15 days upon receiving application and relevant documents from certain organisation must be notified in written form.
- 6.7 Organisation is taken a decision by a state central administrative organisation in charge of labour affairs each time of sending labourforce abroad on the basis of a contract of employment.
- 6.8 State central administrative organisation in charge of labour affairs submits name list of persons sent abroad for employment, and each copy of agreement and relevant documents to Embassy, consular and representative offices of Mongolia in certain country.
- 6.9 In the case organisation granted special mediation permission for employment abroad seriously violated citizens' rights, getting citizens to lose occupational safety, social and health security, sending labourforce to countries other than permitted, and fixing up unjustifiable amount for purpose of taking high profits from mediation activity, the decision on annulling mediation permission of an organisation is made by a Government member for labour affairs.

- 6.10 In the case, a citizen of Mongolia lost life and got disabled from being exposed to industrial accident, acute poisoning and occupational diseases, an organisation granted mediation permission recovers the relevant losses and, if family members request, bear expenses relating to transporting body of a died citizen to Mongolia.
- 6.11 Organisation, along with indicating in the agreement the provisions on coverage in social and health insurance of receiving country, ensures coverage in insurance in accordance with Law of Mongolia on Social Insurance and concludes an agreement with social insurance organisation, if a citizen requests. Income amount paid by insurance contribution to insurance must be no lower than the minimum wage.
- 6.12 Payment imposed for granting mediation permission is regulated in accordance with the relevant law of Mongolia.

Article 7. General conditions of agreement on receiving labourforce and specialists from abroad

- 7.1 Economic entity, organisation and citizen /hereinafter referred to as 'organisation'/ may conclude an agreement with foreign legal body on receiving labourforce and specialists from abroad on jobs and professions requiring high professional skills for the purpose of introducing progressive techniques and technologies in science, education and production, dealing with new production and services, assembling, maintaining equipment and implementing projects.
- 7.2 The following general conditions are indicated in agreement on receiving labourforce and specialists from abroad:
 - 7.2.1. name of organisation and job to be performed by a foreign citizen;
 - 7.2.2. Profession and name of workplace of a foreign citizen, number of foreign citizens to be employed;
 - 7.2.3. health requirements of a foreign citizen;
 - 7.2.4. conditions of mutual recognition of documents certifying profession and education level;
 - 7.2.5 the length of agreement, its expiration date and terms of annulment;
 - 7.2.6. wage amount;
 - 7.2.7. occupational safety and health, working conditions, work and holiday regime;
 - 7.2.8. accommodation and welfare facilities,
 - 7.2.9. social insurance-related issues
 - 7.2.10. methods and types of settling disputes to arise from the implementation of agreement and labour dispute;
- 7.3. In the case domestic labourforce can not be supplied for implementing nationwide sizeable programmes and projects, building construction and required for eradicating hazards of national calamities and disasters, labourforce may be received from abroad on the basis of decision of the Government.

- 7.4. In the case foreign citizen lost his/her life from being exposed to natural calamities, fire and flood, he or she is to be granted assistance and support by the Government of Mongolia likewise a citizen of Mongolia.
- 7.5. In the case of losing life and getting disabled from being exposed to industrial accident, acute poisoning and occupational diseases, an organisation employed a foreign citizen is to fully fulfil its relevant obligations.

Article 8. Receiving labourforce and specialists from abroad

- 8.1 Organisation must preliminary get a mediation permission from state central administrative organisation in charge of labour affairs, and its competent organisations /hereinafter referred to as "competent" organisation/ prior to receiving labourforce and specialists from abroad.
- 8.2 Organisation prepares the following documents in order to take a permission indicated in 8.1 of this law:
- 8.2.1. official letter indicating in detail the needs of receiving labourforce and specilaists from abroad, size and length of job and services to perform, industrial specifics, location, profession, work experience and skills of a foreign citizen;
 - 8.2.2. copy of registration certificate of economic entity, organisation and foreign investment economic entity confirmed by notary;
 - 8.2.3. agreement concluded with foreign legal body regarding receiving labourforce and specialists from abroad;
 - 8.2.4. copy of passport of a foreign citizen;
 - 8.2.5. copy of professional certificate and diploma of a foreign citizen;
 - 8.2.6. reference letter from sectoral ministry and agency to employ;
 - 8.2.7. proposal and comments given by Office in charge of foreign citizens and citizenship issues regarding foreign citizen and his/her family members;
 - 8.2.8. comments by local employment service regarding the needs and demands of receiving labourforce and specialists from abroad in certain organisation.
- 8.3 Competent organisation grants permission of employment in Mongolia within the percentage and number fixed by the Government on the basis of receiving and checking relevant documents.
- 8.4. Permission of employment is given for up to one year and its length is extended in accordance with 8.2 and 8.3 of this law on the basis of receiving and checking organisation's request, results of performed job and service, and grounds for extended employment.

- 8.5. Organisation having a foreign citizen arrived in Mongolia in accordance with permission of employment must register in the Office in charge of foreign citizens and citizenship issues.
- 8.6. In the case a foreign citizen granted permission of employment annuls a contract of employment concluded with organisation, competent organisation makes decision of granting permission in accordance with adequate procedure on the basis of reference by an organisation, a foreign citizen employed in, and grounds for the annulment a contract of employment.
- 8.7. In the case a foreign citizen granted permission of employment in Mongolia has not fulfilled his/her duties and obligations of a contract of employment concluded with certain organisation, breached the provisions of a contract, and moved for employment in other organisations and locations without getting permission, the permission of employment is annulled by relevant competent organisation on the basis of reference by organisation and the notification is to be forwarded to the Office in charge of foreign citizens and citizenship issues.
- 8.8. Length of permission of employment for foreign citizen is accounted starting from the date of making request in the form of an official letter indicated in 8.2.1 of this law.
- 8.9. Government members for labour and financial affairs approve procedures of service and payment amount of granting permission of employment to a foreign citizen jointly.

Article 9. Workplace payment, its amount

- 9.1 Economic entity, organisation and citizen pay workplace payment in the amount indicated in 9.2 of this law for providing a foreign citizen with workplace and ensuring the employment and service with income.
- 9.2. Monthly workplace amount is equal to 2 times of the minimum wage approved by Government of Mongolia per foreign citizen.
- 9.3 Workplace payment is concentrated in employment promotion fund and utilized for measures to generate workplace and reduce unemployment.
- 9.4 The payment indicated in this article is not extended to foreign citizens being employed in foreign diplomatic representative and consular offices, resident representative offices of international organisations, specialists and workers being employed in education and science sector by contract, and if it is indicated in the agreement, foreign specialists and workers being employed by inter-government agreement.

- 9.5 The Government approves regulation on workplace payment, its relieves and exemptions.

CHAPTER THREE

Miscellaneous

Article 10. Responsibilities of the organisation and diplomatic representative offices in foreign countries

- 10.1 The organisation prepares quarterly report and information of implementation of agreement on sending labourforce abroad and receiving labourforce and specialists from abroad, citizens being employed abroad labourforce and specialists received from abroad in accordance with approved form. Information on annulled and extended agreements must be duly prepared and submitted officially to state central administrative organisation and its competent organisation
- 10.2 The organisation has a duty to take measures of sending back Mongolian citizens being employed abroad and labourforce and specialists received from abroad upon completion of a contract of employment
- 10.3 Embassy, consular and representative offices in certain countries have the following duties and obligations regarding Mongolian citizens being employed and industrial trainees abroad, and foreign citizens being employed in Mongolia:
- 10.3.1. monitoring of implementation of agreement regarding employment of citizens of Mongolia abroad;
- 10.3.2. keeping registration and records regarding citizens of Mongolia being employed on the basis of a contract of employment, and submit to state central administrative organisation on quarterly basis;
- 10.3.3. undertaking field visit and study on the working conditions, wage issues and social welfare issues, as the case necessary, rendering support and assistance to Mongolian citizens by addressing to competent organisations of certain country.
- 10.3.4. monitoring and inspecting whether agreement of receiving labourforce and specialists and permission for employment are granted prior issuing the entering visa to Mongolia, and providing for relevant recommendations.

Article 11.

- 11.1 Control over observance of the employment promotion legislation shall be implemented by state central administrative organisation or its competent organisation, the aimag, Capital City, district Governor's offices.

Article 12. Sanctions to be imposed for violation of the legislation

12.1. If violation of the legislation on sending labourforce abroad and receiving labourforce and specialists from abroad is not subject to the criminal procedures, following administrative sanctions to be imposed by the state labour inspector or judge:

12.1.1. In the case of violating the provision 6.1 and 8.1 of this law and receiving labourforce and specialists from abroad, and sending labourforce abroad, the loss shall be reimbursed and official shall be fined by 30000-60000 tugrugs and economic entities or organisations by 150000-250000 tugrugs;

12.1.2. in the case of not paying the payment indicated in the provision 9.1 of this law, the payment shall be reimbursed and the economic entity and organisation shall be fined by 150000-250000 tugrugs,

12.1.3. in the case of violating the provision 10.1 of this law, and not submitting the reports and information, officials shall be fined by 5000-25000 tugrugs, economic entities or organisations by 50000-100000 tugrugs;

12.1.4. in the case of avoiding sending back the citizens indicated in the provision 10.2 of this law and providing the possibilities to be employed without permission, the officials shall be fined by 50000-100000 tugrugs and economic entities or organisations by 500000-1000000 tugrugs.

Article 13. Enforcement of the law

25.1 This law shall come into force on 1 June 2001.

The Vice Chairman of State Ikh Khural

J. Byambadorj