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Legal alert: revised labor code of Mongolia

In accordance with the “General Direction on Improving the Legislation of Mongolia until 2020” which is approved by Resolution No 11 of the Parliament of Mongolia, dated 2017, the revised Labor code was first drafted and submitted to the Parliament in March 2018. After several amendments made to the first draft since then, the revised law has been finally enacted on 2 July 2021. The law shall become enforceable from 1 January 2022. Preconditions to adopt the revised law and new regulations and amendments in this law are outlined in this alert.

Preconditions to adopt the revised law

According to the concept of the Revised Labor Code, regulations of labor relations are needed to be updated for the reason that the following prerequisites have arisen. These include:

1. Fundamental principles and rights in employment relations, and definitions, terminologies are to be complied with the eight fundamental international labor conventions to which Mongolia has acceded, especially the four fundamental conventions and recommendations acceded to since 1999 – Mongolia is a member of the International Labor Organization and has acceded to the relevant international conventions on labor relations. For instance:

- ▶ Discrimination Convention (employment and occupation) (No 111);
- ▶ Abolition of Forced Labor Convention (No 105);
- ▶ Forced Labor Convention (No 29);
- ▶ Minimum Age (Underground Work) Convention (123);
- ▶ (Underground Work) Recommendation (No 124);
- ▶ Employment Policy Convention (No 122);
- ▶ Occupational Safety and Health Convention (No 155);
- ▶ Minimum Age Convention (No 138);
- ▶ Freedom of Association and Protection of the Right to Organize Convention (No 87);
- ▶ Maternity Protection Convention (No 183);
- ▶ Right to Organize and Collective Bargaining Convention (No 98);
- ▶ Equal Remuneration Convention (No 100), Equal Remuneration Recommendation (No 90);
- ▶ Workers’ Representatives Convention (No 135);
- ▶ Workers’ Representatives Recommendation (No 143);
- ▶ Employment Service Convention (No 88);
- ▶ Private Employment Agencies Convention (No 181);
- ▶ Tripartite Consultation (International Labor Standards) (No 144);
- ▶ Tripartite Consultation (Activities of the International Labor Organization) Recommendation (No 152);
- ▶ Vocational Rehabilitation and Employment (No 159)[1].

1. There have been significant changes in the labor market and labor relations, as well as the labor relations are expanding in terms of form and subject matter. New methods and trends including tripartite labor relations, part time work, work from home, work on the basis of an employment agreement between individuals (assistant herder, housemaid, etc.), remote work, etc., are

emerging. Due to the lack of a legal environment that regulates these new employment relations, there have arisen tendencies that labor rights and interests of citizens are violated and responsible persons are not held liable, as well as a misunderstanding in labor relations. Therefore, these types and forms of employment relations are to be legislated in order to address the issues that cause the foregoing situations;

2. As a result of lack of specific regulation on state supervision over employment relations in the current law, implementation of the law is insufficient and the rights of both employees and employers are violated. Thus, the law is to be amended in accordance with international norms;

3. Labor Disputes Settlement Commission is the first instance unit that resolves labor disputes, however, it is not mandatory under the Labor Code to establish a Labor Disputes Settlement Commission in business entities and organizations. As a result of this, it is common that this commission is not established and labor disputes cannot be resolved in the first instance. Therefore, it is necessary to regulate the legal environment where labor disputes can be resolved as possible as in the first instance[2]; and

4. It is common in practice to enter into an employment relation without any written employment agreement especially in agriculture, forestry, hunting, wholesale and retail, and vehicle maintenance, etc., which makes employees unable to enjoy their rights under the Labor Code.

As of the first quarter of 2021, there are 1,156.1 thousand (54.9%) persons in the labor force, whereas 949.7 thousand (45.1%) persons who are not in the labor force. There are 613.7 thousand (53.1%) men and 542.4 thousand (46.9%) women in the total labor force. 1,054.9 thousand (91.2%) persons out of the total labor force are workers, while 101.2 thousand (8.8%) are unemployed[3].

As of 2020, there are 4039 foreign citizens are working under employment agreements in Mongolia. The following table shows the number of foreign citizens working under employment agreements as of the end of the year in terms of economic sector:

Sector	2018	2019	2020
All	4502	4601	4039
Mining and exploration	1654	1762	1481
Processing factories	295	267	322
Construction	121	197	483
Wholesale and retail	782	759	688
Transportation and warehousing	121	151	166
Education	918	990	610
Other	611	475	289[4]

Employees have not entered into written employment agreement with majority of the total workers in these sectors which makes employees unable to exercise their rights protected under the Labor Code. These indicate that labor relations need to be re-regulated.

[1] The International Labor Organization Conventions - <https://nhrcm.gov.mn/>

[2] Concept of the Draft of the Labor Code /revised/ -

<https://mlsp.gov.mn/uploads/files/6e832e3b5c21f213af7c0a8d013810dc402448ad.pdf>

[3] Labor market overview 2021 - https://mlsp.gov.mn/uploads/files/Bulletin_2021_1_Mon.pdf

[4] Ministry of Social Welfare and Labor

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[Link to the Revised Labor Code](#)

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