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Draft law on Licensing

A working group has been established by Resolution No.38 by the Chairman of the State Great Khural (the Parliament) dated 2021 with responsibilities of preparing the draft law on Licensing which was submitted by the Government, approving the license list and other draft laws submitted together with it for discussion at the plenary session, and drafting proposals.

The draft law regulates relations with respect to issuing, suspending, revoking and cancelling issued license from an authorized person to engage in certain types of activities that may adversely affect national security, financial stability, public interest, human health, environment for conducting certain business, or possess and use State and public properties as well as to determine the classification and types of permits, their registration and activities prohibited in the territory of Mongolia. The draft law has 8 chapters and 35 articles.

Preconditions for drafting the Law on Licensing

In the Article 5 of the Constitution of Mongolia, it stated that "Mongolia shall have an economy based on different forms of property consistent to universal trends of world economic development and own country's specifics", and "the State shall regulate the economy with a view to ensure the nation's economic security, the development of all forms of property and social development of the population." Also in the Article 6.1 states that "In Mongolia the land, its subsoil, forests, water, fauna and flora and other natural resources shall be subject to the people's power and State protection", and in paragraph 2 of Article 6 states that "The land, except owned by the citizens of Mongolia, subsoil, its wealth, forests, water resources, and wildlife shall be the state public property" and Article 19, paragraph 3, states that " In exercising his/her rights and freedoms, one shall not infringe the national security, rights and freedoms of others and violate public order".

In addition, in the Article 26.7 of the Civil law of Mongolia, it states that "for-profit juristic persons shall be entitled to undertake any activity that is not prohibited by law or not in conflict with common accepted moral", in article 26.8 states, "A legal entity shall undertake certain activities with the consent of respective competent authorities provided by law. The entitlement to undertake the activities shall emerge from the day of getting the special authorization".

In accordance with the above-mentioned principles proclaimed in the Constitution of Mongolia, the Law on Licensing was adopted in 2001 with the aim of regulate relations with respect to issuing, suspending and revoking a license to conduct certain business activities that require specific conditions and expertise and may negatively affect the public interest, human health, environment and national security and that.

In addition, the Law on Licensing, there are more than 100 laws governing sectoral relations. Thus, depending on the nature of the activity, industry legislation and related rules and regulations may overstate the requirements for licenses, permits, termination and supervision of relationships and may lead to distortions of legal norms such as determining the type of license and the subject matter of its issuance.

Furthermore, along with changes in sectoral legislation, there are increased number of licenses by creating new types of licenses or separating the activities associated with licenses under the Law on State Stamp Duties.

Under current effective Law on Licensing, there are licenses for 18 sectors to be issued by the line ministries for 103 general types, and more than 210 sub-types, and 7 types to be issued by aimag, capital, soum, and district governors on the basis of licenses. However, as of today, 914 licenses are being issued in accordance with other laws and regulations. For example, under Article 15.10.4 of the Law on Licensing, it provides issuance of 4 types of licenses related to industrial explosives and explosive devices, while the Law on Controlling the Circulation of explosives and explosive devices provides 6 types of licenses.

Also, it is common for local self-governing(municipal) bodies to issue permits for certain activities that are not authorized by the law and to impose illegal fees and charges.

It can be concluded that the legal provisions regarding licenses are contradictory with each other and the practice of issuing permits beyond the legal framework is widespread due to the loss of basic principles and unified policies governing this type of relationship in Mongolia.

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For more information or any queries, please feel free to contact Bolormaa.V, Partner by bvolodya@gratanet.com or +976 70155031.

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Practice areas

[LICENSES AND PERMITS](#)

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MONGOLIA

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