

# LAW ON LABOUR OF MONGOLIA

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## CHAPTER ONE

### GENERAL PROVISIONS

#### **Article 1. Purpose of the law**

The purpose of this law is to determine the general rights and duties of employers and employees who are parties to a labour relationship based on an contract of employment, collective agreement or collective bargaining, and to provide rules with respect to collective or single employee labour disputes, working conditions, management, monitoring and supervision, and liabilities for violation of this law, and to ensure the mutual equality of the parties.

#### **Article 2. Labour legislation**

- 2.1 The Legislation on Labour shall comprise the Constitution of Mongolia, this law and other legislations enacted in conformity therewith.
- 2.2 Should provisions of international treaties to which Mongolia is a party provide otherwise, provisions of the international treaties shall prevail

#### **Article 3. Definitions of the law**

- 3.1 The following terms used in this law shall have the following meanings:
  - 3.1.1 “employer” means a person employing an employee on the grounds of an contract of employment;
  - 3.1.2 “employee” means a citizen employed by an employer on the grounds of an contract of employment;
  - 3.1.3 “contract of employment” means an agreement between an employee and an employer pursuant to which an employee undertakes to perform certain work subject corresponding to internal labour regulations established by the employer in accordance with the law, and the employer undertakes to pay wages to the employee for the employee’s work results and to ensure working conditions as provided in the law, collective agreements and other related agreements;

- 3.1.4 “collective agreement” means an agreement between an employer and the representatives of employees of a business entity or organisation ensuring labour rights and legal interests more favourable to the employees than those guaranteed by law, and provided for other matters not directly regulated by this law;
- 3.1.5 “collective bargaining” means an agreement among an employer, the representatives of the employer's employees, and a state administration organization, either at the national or regional level or with respect to an administrative territorial unit, economic sector or profession, for the purpose of protecting the labour rights and related legal interests of the employer and employees;
- 3.1.6 “representatives of an employer” means the person authorized by the administration of a business entity or an organisation, or an organisation which, pursuant to its charter, has undertaken to represent and protect the rights and legal interests of the employer;
- 3.1.7 “representatives of an employee” means the trade union that undertake to represent and protect the rights and legal interests of employees, or, if no such organisation exists, individual representatives selected from a meeting of all employees;
- 3.1.8 “an individual labour dispute” means a dispute between the parties to a contract of employment concerning labour rights and related legal interests;
- 3.1.9 “collective labour dispute” means a dispute involving the parties to a collective agreement or bargaining concerning the negotiation, enforcement, monitoring or supervision of such collective agreement or bargaining;
- 3.1.10 “abnormal working condition” means a workplace condition that does not comply with applicable labour safety and sanitary requirements, but where it is not feasible to eliminate the negative impact of the condition;
- 3.1.11 “industrial accident” is when an employee is affected by an accident or other industrial factors in the course of the performance of his labour duties;
- 3.1.12 “professional disease” means a disease acquired by an employee due to the negative impact of conditions encountered by the employee in the workplace in the course of the performance of his or her duties;
- 3.1.13 “a strike” means, in connection with a collective labour dispute, an action of employees whereby they voluntarily stop work, completely or partially, for a period of time.

**Article 4. Relations regulated by the Labour Code**

- 4.1 This law regulates contract of an employment's and other labour relations between the following parties:
- 4.1.1 labour relations between a citizen of Mongolia and domestic or foreign business units or organisations conducting operations in the territory of Mongolia;
  - 4.1.2 labour relations between a citizen of Mongolia and another citizen of Mongolia, a foreign citizen or a stateless person;
  - 4.1.3 labour relations between a domestic entity or organisation and a foreign citizen or stateless person;
  - 4.1.4 labour relations between foreign entities, organisations, citizens, and stateless persons that are conducting operations in the territory of Mongolia, unless otherwise provided in international treaties to which Mongolia is a party.
- 4.2 If individuals have undertaken to contribute property or labour to an enterprise, and have not entered into an agreement with respect to labour relations or have agreed to follow this law, the relevant provisions of this law shall be applicable to such relations.

**Article 5. Rights and obligations of an employer**

- 5.1 An employer shall have the right to adopt and enforce internal labour regulations in conformity with the laws of Mongolia, to require an employee to fulfil his or her obligations under an contract of employment, and to enforce such obligations in accordance with this law.
- 5.2 An employer is obligated to provide his employees with work and reasonably comfortable working conditions, to compensate such employees for their labour, and to fulfil his or her obligations under the this law, contract of employment's, and internal labour regulations.

**Article 6. Rights and obligations of an employee**

- 6.1 An employee shall have the right to be provided with working conditions that comply with safety and sanitation requirements; to receive compensation for his work; to take a vacation as provided in applicable internal regulations; to assemble with other employees for the purpose of protecting his rights and legal interests through a representative or representative organisation; and to receive a pension, social insurance, and other benefits as provided in applicable contracts.
- 6.2 An employee is obligated to work honestly, keep confidential those matters related to his work and duties that are specified as confidential by law, and to strictly follow and

comply with applicable provisions of contract of employment's, collective agreements, internal labour regulations, and safety and sanitation regulations.

**Article 7. Prohibition of discrimination, limitations or advantage**

- 7.1 No one shall be forced to perform work.
- 7.2 Discrimination, or the conclusion of limitations or advantage based on nationality, race, sex, social origin or status, wealth, religion, or ideology is prohibited.
- 7.3 If, due to the nature and requirements of the work or duty to which an employee has been assigned, an employer has limited an employee's rights and freedom, he must justify the grounds for doing so.
- 7.4 When recruiting an employee for work, an employer may not ask questions pertaining to the private life, ideology, marital status, political party membership, religious beliefs, or pregnancy of the employee unless such questions are related to the work or duty to be performed.
- 7.1 If Provision 7.4 has been violated, and an employee has been asked a prohibited question, the employee shall not be obligated to respond.

**CHAPTER TWO**

**COLLECTIVE AGREEMENTS AND BARGAININGS**

**Article 8. Basic principles with respect to collective agreements**

- 8.1 When concluding a collective agreement or collective bargaining, the following principles shall be adhered to:
  - 8.1.1 openness;
  - 8.1.2 compliance with the law;
  - 8.1.3 an equal number of representatives from the negotiating parties;
  - 8.1.4 equality of bargaining power between the parties;
  - 8.1.5 full discussion of the issues pertaining to collective agreements;
  - 8.1.6 that obligations shall be voluntarily undertaken;
  - 8.1.7 specificity with respect to the obligations of the parties.

**Article 9. Provision of Information**

- 9.1 During the negotiation of a collective agreement or bargaining, the relevant State organisation and employer shall be obligated to provide all required information to the employees' representatives.
- 9.2 The parties are obligated to exchange all information in their possession when monitoring the progress and enforcement of a collective agreement or bargaining.

**Article 10. Prohibition of third party involvement**

- 10.1 During the negotiation and enforcement of collective agreements and bargaining, the participation of non-involved third parties, obstruction of the exercise of rights of the parties, or limitation of the legal interests of the parties by the government, a non-government or religious organisation, political party, a non-involved citizen, or any official, is prohibited.

**Article 11. Initiation of collective agreements and bargaining**

- 11.1 Any party may initiate negotiations to amend, modify, or establish a collective agreement or bargaining.
- 11.2 A party that proposes to negotiate and establish a collective agreement or bargaining shall inform the other parties in writing.
- 11.3 The right to negotiate on behalf of an employer shall be exercised by the employer's representatives as specified in Article 3.1.6 of this law.
- 11.4 The representatives of employees specified in Article 3.1.7 of this law have the right to negotiate and establish a collective agreement or bargaining on behalf of the employees.
- 11.5 If there are multiple relevant trade unions at the national, regional, or administrative territorial unit level, or in a specified economic sector or profession, or in a business entity or organisation, they shall participate in the negotiation and conclusion of the collective agreement or bargaining through their representatives in proportion to the number of their members.

**Article 12. Conduct of negotiations**

- 12.1 The parties shall establish collective agreements and bargaining by negotiation.
- 12.2 The party that initiates the negotiation shall draft a statement of either the subjects to be negotiated, the terms and conditions of the proposed collective agreement or bargaining, or an amendment or addition to such contract or bargaining, and shall attach a notice of the time and place of the negotiations, and deliver it to the other parties.
- 12.3 A party who has received a notice of negotiation shall reply in writing form within 5 working days after receiving the notice.

- 12.4 A party who has received a notice of negotiation shall be obligated to start the negotiation within the following periods of time:
- 12.4.1 within 10 working days after receiving notice related to negotiation of the conclusion of a collective agreement or an amendment or addition to such a contract;
  - 12.4.2 within 15 working days after receiving notice concerning negotiation of the conclusion of a collective bargaining.
- 12.5 If a party who has received a notice of negotiation does not reply or start negotiations within the time periods specified in Articles 12.3 and 12.4, or there are disagreements during the negotiations that cannot be resolved, the issues shall be resolved in accordance with the provisions of Chapter Ten of this law.
- 12.6 The parties participating in a negotiation are obligated not to disclose confidential or trade secret information obtained during the negotiation process.
- 12.7 Expenses incurred during a negotiation, such as compensation of an expert participating in the negotiation by agreement of the parties, and other expenses, shall be funded in accordance with regulations specified in applicable collective agreements and bargaining.
- 12.8 If an elected trade union representative, or an elected non-union representative, participates in a negotiation but has not been excused from his or her primary work, an employer may not impose a disciplinary penalty on such person without receiving permission in advance from the appropriate higher level authority of such person, nor shall such employer transfer such person to another job or terminate the employment of such person during the negotiation or within 1 year following completion of the negotiation.
- 12.9 When a collective agreement or agreement has been signed by all representatives of the parties, the negotiation shall be deemed to be concluded.

**Article 13. Scope of collective agreements and bargaining**

- 13.1 A collective agreement or bargaining shall apply to all employers and employees participating in the negotiation and shall govern the labour-related rights and legal interests of such employers and employees.

**Article 14. Conclusion of collective agreements and bargaining**

- 14.1 In establishing collective agreements and bargaining, the provisions of Article 12 of this law shall be followed.
- 14.2 The rights and obligations of employees in all units and divisions of a business entity or organisation, and the rights and obligations of their employer, shall be governed by a single collective agreement or bargaining.

- 14.3 Regardless of the number of persons initiating the bargaining, only one such bargaining shall be established for the level considered.
- 14.4 In the negotiation of collective agreements and bargaining, the employer shall be obligated to provide the negotiating parties with pertinent information, stationery, office equipment, a room for meetings and discussions during non-working hours, and assistance in organizing propaganda, agitation, and advertising.
- 14.5 Collective agreements shall be established for a minimum period of one year and collective bargaining for two years.

**Article 15. Registration of collective agreements and bargaining**

- 15.1 Within 10 days after a collective agreement or bargaining has been signed, an employer shall deliver such collective agreement or bargaining for registration to the Governor of the soum or district where the employer has its principal place of business.
- 15.2 A collective bargaining with respect to employees in a specified economic sector, region, aimag, capital city or profession shall be registered with the state central administration organization in charge of labour matters within 10 days after such bargaining is signed.
- 15.3 A collective bargaining with respect to employees employed by a specified soum or district shall be registered with the administrative offices of the Governor of the relevant aimag or capital city within 15 days after such bargaining is signed.
- 15.4 The authorized of collective agreements or bargaining, as provided in this Article, shall review collective agreements and bargaining that have been submitted for registration within 10 working days after receiving them and register if they are in compliance with this law.
- 15.5 A collective agreement or agreement which has not been registered, or is not in compliance with this law, or in which the rights of an employee have been limited other than in compliance with this law, shall be deemed to be invalid and not in effect.

**Article 16. Enforcement of collective agreements and bargaining**

- 16.1 Collective agreements and bargaining shall be valid and effective upon completion of registration as specified in Article 15.
- 16.2 Changes in the location, management structure, or organisation of a business entity or organisation shall be not a grounds for terminating a collective agreement or bargaining.
- 16.3 In the event of the reorganisation of a business entity or organisation, or a change of ownership, matters pertaining to the renewal of, or amendments to, a collective

agreement or bargaining shall be resolved by negotiation between the representatives of the employer and the employee.

- 16.4 In the event of the dissolution of a business entity or organisation in accordance with the law, the provisions of the applicable collective agreement or bargaining shall be followed.
- 16.5 Matters pertaining to amendments to a collective agreement or bargaining shall be resolved by agreement between the parties in accordance with the provisions of the relevant contracts and bargaining and, if there are no provisions with respect to such matters in the collective agreements or bargaining, the negotiation process used in the conclusion of such collective agreement or bargaining shall be followed.

#### **Article 17. Monitoring of collective agreements and bargaining by the parties**

- 17.1 The enforcement of a collective agreement shall be monitored by the parties or the representatives of the parties.
- 17.2 The enforcement of bargaining established at the aimag, capital city, soum or district levels shall be monitored by the parties, or the representatives of the parties, and the state central administration organization in charge of labour issues or the Governor of the relevant aimag, capital city, soum, or district.
- 17.3 In the course of monitoring, the parties shall exchange all information in their possession which is relevant to the collective agreement or bargaining.
- 17.4 The parties individually or jointly shall evaluate enforcement of the collective agreement or bargaining bi-annually, or at the times specified in the collective agreement or bargaining, and shall inform all employees of the results of the evaluation.

#### **Article 18. Relations regulated by collective agreements**

- 18.1 The following matters, to the extent that they are not specifically regulated in this law, shall be regulated by the applicable collective agreement:
- 18.1.1 establishing or raising the amount of an employee's basic salary, establishing or changing its nature or form, the salary distribution date, conditions and requirements with respect to extra pay, additional pay, bonuses, pension benefits, other benefits, the amount of the payment, and work related requirements such as production norms and quotas;
- 18.1.2 special training and retraining requirements, training for a new occupation, and guarantees of employment;
- 18.1.3 establishing a schedule of working hours and breaks;

- 18.1.4 improving occupational safety and sanitary conditions for employees, such as pregnant women and the disabled or pygmy;
  - 18.1.5 protecting the legal rights and interests of employees in the event of reorganisation or privatisation of the employer's business entity or organisation, or its branches or units;
  - 18.1.6 adjusting compensation based on the rate of inflation or decreases in the currency exchange rates;
  - 18.1.7 determining of the amount of the employer's required contribution to social benefits programs;
  - 18.1.8 meeting the standards and requirements of ecological safety, labour safety and sanitation;
  - 18.1.9 providing for lessening the work load of employees who are undergoing training while working for the employer;
  - 18.1.10 construction and utilisation of apartments by a business entity or organisation for the benefit of its employees; conclusion of kindergartens, pre-school day-care centres, buildings for social and cultural purposes; provision for decreasing the work load of employees with many children, or a single mother or father heading a household, or who have a Disabled child; improvement of the living standards of employees whose health has been damaged by an professional disease, acute poisoning, or an industrial accident; or disabled persons or the elderly persons who were previously employed by such a business entity or organisation;
  - 18.1.11 providing trade unions, their members, or other elected representatives of the employees, the opportunity and conditions for conducting their activities.
- 18.2 Rights guaranteed to employees under a collective agreement may be more favourable to the employees than rights guaranteed under this law.
- 18.3 Collective agreements shall contain provisions concerning the conclusion and monitoring of the contracts, notices to the respective parties, and processes for conducting negotiations, and the development of bilateral and tripartite labour relations.

**Article 19. Relations regulated by collective bargaining**

- 19.1 The following labour relations shall be regulated by collective bargaining:
- 19.1.1 general matters pertaining to labour relations policies, such as rights to social benefits, and a citizen's labour rights and related legal interests shall be determined by a national collective bargaining;

- 19.1.2 general matters concerning compensation, labour conditions, organisation of the employees' labour, and production quotas or norms for employees with special skills, shall be determined by bargaining at the industrial sector level;
- 19.1.3 general matters concerning minimum compensation, citizens' right to work, and related legal interests shall be determined by bargaining at the regional level;
- 19.1.4 general matters concerning employment and labour relations of employees of administrative or territorial units shall be determined by bargaining at the aimag, capital city, soum or district level;
- 19.1.5 general matters concerning labour relations of persons employed in certain specialized occupations shall be regulated by professional tariff bargaining.

**Article 20. Parties participating in a collective bargaining**

- 20.1 In addition to the representatives of the employer and employees specified in Articles 3.1.6. and 3.1.7 of this law, representatives of the relevant State administrative organ may participate in a collective bargaining.
- 20.2 Depending on the status of the participating parties, a collective bargaining may be bilateral or tripartite.
- 20.3 Depending on the scope of the agenda, and the status of the participating parties, a collective bargaining shall be one of the following types: at the national level – a national bargaining or sector bargaining; at the administrative or territorial unit level – a collective bargaining of the region, aimag, capital city, soum or district; at the level of a specific profession – a collective bargaining of professional tariffs.
- 20.4 Depending on the type of collective bargaining, the following parties shall participate in the relevant negotiations:
  - 20.4.1 with respect to a national bargaining – the Government and the national organisations representing and protecting the rights and legal interests of the employers and employees;
  - 20.4.2 with respect to a sector bargaining – the central State administrative organ in charge of issues of that sector and the organisations representing and protecting the rights and legal interests of the employers and employees;
  - 20.4.3 with respect to a regional bargaining – the Governor, and the regional organisations representing and protecting the rights and legal interests of the employers and employees;

- 20.4.4 with respect to an aimag, capital city, soum or district bargaining – the relevant Governor and the organisations representing and protecting the rights and legal interests of the employers and employees;
- 20.4.5 with respect to a professional tariff agreement - the relevant State administrative organisation responsible for issues with respect to the specified profession, and the organisations representing and protecting the rights and legal interests of the employers and employees.

### **CHAPTER THREE**

#### **CONTRACT OF EMPLOYMENTS**

##### **Article 21. Contract of employment's**

- 21.1 The following basic matters shall be provided for in an contract of employment:
  - 21.1.1 name or title of the position of employment;
  - 21.1.2 duties and work to be performed;
  - 21.1.3 amount of compensation;
  - 21.1.4 conditions in which work is to be performed.
- 21.2 No party to an contract of employment may unilaterally amend the provisions of the contract.
- 21.3 In the course of negotiation of an contract of employment, if all of the basic conditions specified in Article 21.1 of this law have not been agreed upon, the contract shall not be considered as established.
- 21.4 An contract of employment shall comply with this law and applicable collective agreements and bargaining.
- 21.5 If any of the terms and conditions of an contract of employment are less favourable than those in this law or applicable collective agreements or bargaining, such terms and conditions shall be invalid.
- 21.6 The parties may agree to terms and conditions in addition to the basic conditions specified in Article 21.1 of this law.
- 21.7 An contract of employment shall become effective on the date it is signed.

##### **Article 22. Independent contracts**

- 22.1 An employer may enter into an independent contract with an individual who has special talents or skills.

22.2 A schedule of the jobs or positions with respect to which an individual contract may be established pursuant to Article 22.1 shall be established by the Member of the Government in charge of labour matters.

**Article 23. Term of an contract of employment**

23.1 An contract of employment shall be either for a specified term or indefinite.

23.2 The term of an contract of employment shall be determined by the parties based on the nature of the work and the duties to be performed.

23.3 If the term of an contract of employment has expired, and the parties do not wish to terminate it, and the employee continues to perform his work, such an contract of employment shall be deemed to have been extended for the period of the initial term specified in the contract.

**Article 24. Conclusion of an contract of employment**

24.1 An employer shall conclude an contract of employment with an employee in writing form and deliver one copy of the contract to the employee.

24.2 If an employer employs several employees in one work place, he or she shall conclude a separate contract of employment with each employee.

24.3 If an contract of employment has not been concluded in writing form, the employer may not require the employee to perform any work or duties.

**Article 25. Conclusion of an independent contract and its content**

25.1 An independent contract shall be in writing form.

25.2 The term of an independent contract shall not be for more than 5 years.

25.3 An independent contract shall specify the term of the independent contract, the work to be performed by the employee, the duties of the employee, regulations for evaluation of enforcement of the independent contract, a description of any assets to be placed under the employee's control, provisions with respect to the possession, use and disposition of such assets, compensation, employee benefits, any profit sharing arrangements with the employee, and the obligations of the employee.

25.4 If, following evaluation of an employee's work performance pursuant to an independent contract, it is determined that an employee has performed his work and duties satisfactorily, the independent contract may be extended.

**Article 26. Performance of several jobs or duties at the same time**

- 26.1 Within the limits of established working hours, an employee may simultaneously perform other work for his employer, or for some other organisation if permitted by the terms of his contract of employment, or combine his or her work or duties with other work or duties for his or her employer, or, if agreeable to his or her employer, substitute for an absent employee and, in any such case, the work load of an employee may be increased.
- 26.2 Except as provided in Article 28, an employee may enter into simultaneous contract of employment's with more than one employer.

**Article 27. Prohibitions with respect to related parties**

- 27.1 Members of a family, or related parties, may not administer or supervise the work of other family members or relatives in any State-owned or partially State-owned entities.

**Article 28. Working for several employers at the same time**

- 28.1 An employee of a State-owned entity whose job includes the right to dispose of property of the entity, or who holds a management or supervisory position in such entity, may not simultaneously hold a similar job, or management or supervisory position, at any other entity that is conducting similar operations.
- 28.2 Article 28.1 shall also apply to simultaneous employment.
- 28.3 An employee shall be liable for any loss or damage incurred by the employer as a result of a violation of this Article.

**Article 29. Terms of annulment of an contract of employment due to legal capacity**

- 29.1 An contract of employment between an employer and a person who does not have legal capacity or has limited legal capacity to enter into the contract, shall be deemed to be invalid from the date such person stops performing his or her work duties.

**Article 30. Invalidation of certain provisions of an contract of employment**

- 30.1 A determination that any provision of an contract of employment is invalid shall not affect the validity of miscellaneous provisions of an contract of employment.

**Article 31. Prohibiting performance of work not specified in an employment contract**

- 31.1 An employer may not demand that an employee perform work not specified in his contract of employment, except as otherwise provided in this law.

**Article 32. Temporary transfer of an employee to another job in case of unavoidable work demand**

32.1 If an unavoidable need to prevent or eliminate the consequences of a natural disaster or industrial accident arises, or, if any other unforeseen circumstance causes the interruption of the normal operations of an employer's organisation, the employer may transfer an employee to another job not provided for in the contract of employment for a period of up to 45 days.

**Article 33. Temporary transfer of an employee to other job during idle time**

33.1 During idle time, and if agreeable to the employee, an employer may transfer an employee to a job not provided for in the contract of employment within the employer's organisation or another organisation.

**Article 34. Transfer of an employee to another job for health reasons**

34.1 If the relevant medical-labour commission determines that working conditions are adversely affecting the health of an employee, and if agreeable to the employee, he may be transferred by the employer to another job within the employer's organisation where such conditions do not exist.

**Article 35. Retaining the job or position of an employee when he or she is not fulfilling their duties**

35.1 An employee shall retain his or her job or position in the following circumstances, even though he or she is not performing their assigned duties:

35.1.1 if the employee is performing specified duties on behalf of a State organisation for a period of not more than 3 months;

35.1.2 if the employee is on an annual vacation;

35.1.3 if the employee is undergoing medical examinations, or acting as a donor, or is on leave with permission of the employer or pursuant to a medical doctor's certificate;

35.1.4 if the employee is on pregnancy, maternity or baby care leave;

35.1.5 if the employee is participating in discussions or negotiations in connection with the entrance into any collective agreements or bargaining, or is participating in a legally organized strike;

35.1.6 if the employee has been ordered to report for active duty in the army by the army activation committee;

35.1.7 such other circumstances as may be provided in this law, applicable collective agreements, or contract of employment's.

**Article 36. Reinstatement of an employee to his or her previous job or position**

36.1 An employer shall reinstate an employee to his or her previous job or position under the following circumstances:

36.1.1 if the employee has become Disabled as a result of an industrial accident, poisoning, or professional disease, and his or her contract of employment has terminated, he or she shall be reinstated within 1 month after recovering from such handicap;

36.1.2 if a court decides that an employee has been unreasonably fired and is entitled to reinstatement;

36.1.3 other occasions provided by law.

36.2 If a job or position previously performed by an employee has been abolished the employer shall employ the employee in another similar job or position, pursuant to an agreement between the employer and employee.

36.3 If, in accordance with Article 40.1.1, the job or position of an employee has been abolished, but within a period of 3 months thereafter it has been re-established, and a determination has been made that the abolishment of the position was unreasonable, the employee shall be reinstated to such job or position.

**Article 37. Grounds for termination of an contract of employment**

37.1 An contract of employment may be terminated upon the following grounds:

37.1.1 if the parties to the contract agree to terminate it;

37.1.2 if either the employer or employee dies;

37.1.3 if the contract of employment has expired and the parties elect not to extend it;

37.1.4 if an organisation, so authorized by law, so demands;

37.1.5 if a wrongly fired employee has been reinstated to his previous job or position;

37.1.6 if the employee has been called to active duty in the army;

37.1.7 if a court convicts an employee for a crime and imposes a penalty that prevents the employee from performing his work duties;

- 37.1.8 if the contract of employment has been terminated at the initiative of an employer or an employee.

**Article 38. Termination of an contract of employment**

38.1 An contract of employment may be terminated upon the following grounds:

- 38.1.1 if initiated by the employee;
- 38.1.2 if initiated by an employer.

**Article 39. Termination of an contract of employment at the initiative of the employee**

- 39.1 Except as otherwise provided in this law or the contract of employment, an employee has the right to leave his workplace on 30 days notice of termination of his contract of employment to the employer. In this case an contract of employment is considered to have been terminated.
- 39.2 An contract of employment may to be terminated prior to the time limit specified in Article 39.1 of this law, if there are valid grounds for such termination or if the employer and employee agree to such termination.

**Article 40. Termination of an contract of employment at the initiative of the employer**

- 40.1 An contract of employment may be terminated at the initiative of the employer on any of the following grounds:
- 40.1.1 if the employer's business entity or organisation, or a branch or unit thereof, has been dissolved, or the job or position within it has been abolished, or the number of employees has been reduced;
- 40.1.2 if it has been determined that the employee cannot meet the requirements of the job or position because of lack of professional qualifications or skill, or because of health reasons;
- 40.1.3 if an employee reached 60 years of age and is eligible to receive a pension;
- 40.1.4 if an employee has repeatedly violated the employer's disciplinary rules or has committed a serious violation which, by terms of the contract of employment, would automatically terminate the labour relations;
- 40.1.5 if an employee who is responsible for assets or money of the employer has acted wrongfully and, as a result, has lost the trust of the employer;

- 40.1.6 if an employee is elected and assigned to perform other salaried work within the employer's organisation;
  - 40.1.7 other grounds set forth in the contract of employment.
- 40.2 shall terminate the contract of employment of any new employee employed to perform the work of the dismissed employee and, if reasonably possible, shall provide such new employee with other work.
- 40.3 An employer may not otherwise terminate an contract of employment with an employee whose job or position has been retained unless the employer's business is dissolved.
- 40.4 A change of ownership or management of a business entity or organization shall not be grounds for termination of an contract of employment.
- 40.5 Notice of termination of an contract of employment pursuant to Articles 40.1.1 or 40.1.2 shall be given to the employee at least one month prior to such termination. Notice of termination of all employees because of the dissolution of a business entity or organization shall be given to the relevant representatives of the employees at least 45 days prior to such dissolution and the employer and such representatives of the employees shall thereafter enter into appropriate negotiations as provided in this law.

**Article 41. Grounds for termination of an independent contract**

- 41.1 In addition to the grounds otherwise provided in this law, an independent contract may be terminated at the initiative of an employer on the following grounds:
- 41.1.1 if, following an evaluation, the employer has determined that the employee has not, without a good reason, satisfactorily performed his work under the independent contract;
  - 41.1.2 if, in violation of Article 28, the employee has entered into a simultaneous contract of employment or independent contract with another employer;
  - 41.1.3 if ownership of the employer's organisation or entity has been transferred to another owner;
  - 41.1.4 if it is established that the employee has inefficiently or wastefully dealt with the employer's assets for which he was responsible, or that he wasted assets which were transferred to him under the contract, or that he has exceeded the authority granted to him by the employer.
- 41.2 In case of termination of a contract pursuant to Article 41.1.3, the employer shall notify the employee at least 2 months prior to such termination and pay the employee an amount equal to not less than his average compensation for a three month period.

**Article 42. Dismissal compensation**

- 42.1 An employer shall pay to an employee whose contract has been terminated on the grounds specified in Articles 37.1.6, 40.1.1, 40.1.2 or 40.1.3 additional compensation in an amount equal to at least the employee's average compensation for one month.
- 42.2 In the case of a general termination of a large number of employees, additional compensation to be paid by an employer to the employees shall be agreed to by the employer and representatives of the employees.

**Article 43. Termination of employment and transfer of the employee's duties**

- 43.1 When terminating an contract of employment with an employee, the employer shall establish a time for the transfer of the employee's duties to the new employee who is assuming these duties, and specify that time in the decision on termination of employment of the employee.
- 43.2 An contract of employment shall be deemed to be terminated when the employee has completed the transfer of his duties to the new employee.
- 43.3 The employer shall provide the terminated employee with the decision on termination, his social insurance records and, if required by law, with termination compensation on the date of termination.
- 43.4 If requested by the employee, the employer shall provide the employee with a letter of reference concerning the nature of his occupation, profession, specialization, position and remuneration.

**Article 44. Temporary suspension**

- 44.1 If legally required by an authorized authority, an employee may be temporarily suspended from holding his job or position and payment of compensation to the employee may be halted.

**Article 45. Training in the workplace**

- 45.1 An employer shall provide employees with opportunities to acquire professional skills and provide for retraining courses.
- 45.2 Theoretical and practical training in the workplace may be given during work hours.

**Article 46. Social insurance**

- 46.1 Unless otherwise provided by law, an employer must provide for social and health insurance for employees employed under an contract of employment and must withhold premium payments each month as required by law.

- 46.2 The employer shall open social and health insurance record books for each employee when the contract of employment is established and maintain records of monthly social and health insurance withholding and related fees in accordance with applicable regulations.
- 46.3 If an employee is engaged in seasonal work, social and health insurance payments, based on the minimum compensation for that occupation required by law, shall be paid by the employer during the off-season on behalf of basic employees who work full time during the relevant season.
- 46.4 Social insurance and health insurance withholding and fees with respect to an employee working for a foreign business entity or organization pursuant to an contract of employment shall be withheld and paid as provided by law.

## **CHAPTER FOUR**

### **COMPENSATION**

#### **Article 47. Compensation**

- 47.1 Compensation consists of basic wages, additional pay, extra pay, awards and bonuses.

#### **Article 48. Compensation regulation**

- 48.1 Minimum compensation shall be determined by law.
- 48.2 A reference book showing levels of compensation and production norms for specific professions and jobs shall be prepared by the state central administration organization in charge of labour matters on the grounds of proposals made by national organizations representing and protecting the rights and legal interests of employers and employees.
- 48.3 An employer shall adopt the following regulations in accordance with applicable laws, collective agreements and bargaining:
- 48.3.1 a list of jobs and positions;
  - 48.3.2 a reference book of job and position descriptions;
  - 48.3.3 production norms;
  - 48.3.4 basic compensation and eligibility requirements for additional pay, extra pay, awards and bonuses.

#### **Article 49. Principles and forms of payment of compensation**

- 49.1 Compensation may be based on an hourly wage, by the results of work performed, or by other criteria.
- 49.2 Male and female employees performing the same work shall receive the same compensation.
- 49.3 Higher compensation may be paid for work performed requiring specialization, knowledge, or a profession.

**Article 50. Additional pay**

- 50.1 In addition to basic compensation, additional pay may be paid to an employee based on work performance.
- 50.2 Additional pay shall be calculated based on the employee's basic compensation and shall be determined and paid under the following circumstances: where the employee, in addition to his basic duties, has been simultaneously performing another job or position, or has substituted for an absent employee, or performed additional duties not specified in his job description, or has performed work other than during normal working hours.
- 50.3 Additional pay shall be determined in accordance with the applicable collective agreement and shall be agreed to by the employee.

**Article 51. Extra pay**

- 51.1 Extra pay for work performed under special conditions or requiring specialized knowledge shall be determined and paid in accordance with the provisions of the applicable collective agreement, taking into account the employee's job description.

**Article 52. Additional pay for working on public holidays**

- 52.1 If an employee works on a public holiday, and is not given another day off from work for each such day, he or she shall receive compensation for such work at double rate of his or her average compensation.

**Article 53. Additional pay for working overtime or on weekly rest days**

- 53.1 If an employee works overtime or on weekly rest days, and has not been given another rest day for each such day, he or she shall receive compensation for such work in an amount equal to at least one and one-half times his or her average compensation.
- 53.2 Additional pay determinations provided for in Article 53.1 shall be governed by applicable collective and contract of employments.

**Article 54. Additional pay for working during night hours**

54.1 If an employee works during night hours, and is not given equivalent periods of rest during normal business hours, he or she shall receive extra compensation in accordance with the provisions of applicable collective and contract of employments.

**Article 55. Regular vacation compensation**

55.1 During the regular vacation of the employee, he or she shall be given a regular vacation payment.

55.2 The amount of the regular vacation payment shall be established in the applicable collective or contract of employment based on the average compensation of the employee for that working year.

**Article 56. Idle time compensation**

56.1 If an employee, through no fault of his own, can not be transferred to another job during a period of idle time with respect to the employer's business, he shall receive compensation in an amount specified in the applicable collective agreement.

56.2 The idle time compensation determined by the collective agreement shall be equal to at least 60 percent of the employee's basic compensation and shall not be less than the minimum compensation payable for the job description.

56.3 If the idle time is caused by actions of the employee, he shall not be entitled to receive any idle time compensation.

56.4 If, during idle time, the employee performs other work for the employer, he shall be paid according to the work performed, but in no event shall such payment be less than his previous average compensation.

56.5 If, during idle time, an employee refuses to perform another job without a good reason, he shall not be entitled to receive idle time compensation.

**Article 57. Compensation during a time when an employee is temporarily transferred to other work due to an inevitable need**

57.1 If an employee has been transferred to another job pursuant to the provisions of Article 33 and his previous compensation has been reduced because of such transfer, he shall be entitled to receive, in addition to his compensation for the actual work performed, the difference between his new compensation and previous compensation.

**Article 58. Compensation of an employee under 18 years of age**

58.1 Compensation of an employee under the age of 18 may be calculated on a piecework grounds or at an hourly rate and, in addition, reduced hours shall be considered hours worked and he shall be paid his basic hourly compensation for such reduced hours.

**Article 59. Payment during transfer of duties**

59.1 During the transfer of duties of an employee, he or she shall continue to be paid compensation by his or her previous employer.

59.2 If the time allotted for transfer of duties expires through the fault of the employer, the employee shall continue to be compensated until the transfer has been completed.

59.3 If the time allotted for transfer of duties is not sufficient through the fault of the employee, he shall not be entitled to receive compensation for the time required to complete the transfer.

**Article 60. Time for compensation payments**

60.1 Compensation of an employee shall be paid at least twice a month, on specified dates.

60.2 Compensation may be paid on an hourly, daily or weekly calculation grounds.

60.3 Advances may be given to an employee at his or her request.

**Article 61. Forms of compensation**

61.1 Basic compensation, additional pay, extra pay, and other payments shall be paid in cash.

**Article 62. Notification of changes in compensation**

62.1 If, pursuant to the terms of a collective agreement, an employer decides to change the amount or form of compensation of his employees, he shall notify his employees at least 10 days prior to implementing the change and shall also make appropriate changes in any relevant contract of employments.

**Article 63. Deductions from compensation - limitations on amount**

63.1 Deductions from an employee's compensation may only be made in the following circumstances:

63.1.1 an employer may assert a claim that an employee must pay for loss or damage caused by the employee in an amount up to but not exceeding the average monthly compensation of the employee;

63.1.2 other cases as provided by law.

- 63.2 A deduction from an employee's monthly compensation may not exceed 20% of such compensation (excluding withheld income taxes) except that, in the case of child support payments, or where there are multiple deduction claims, the aggregate amount of such deductions shall not exceed 50% of the employee's monthly compensation.
- 63.3 If the employee disputes the employer's deduction claim, or the calculation of the amount proposed to be deducted, he may file a complaint with the relevant labour dispute settlement committee.
- 63.4 Claims for deductions that exceed the employee's average monthly compensation shall be submitted to the court.
- 63.5 If an employer has made illegal deductions from an employee's compensation, the employee may file a complaint with the relevant labour dispute settlement committee.

**Article 64. Special allowances and payments for employee whose position is being retained**

- 64.1 When an employee is undergoing a medical examination, or acting as a blood donor as provided in Article 35.1.3; or is engaged in the negotiation or conclusion of collective agreements or bargaining as provided in Article 35.1.5; or in the cases specified in Articles 35.1.1 and 35.1.6, he or she shall continue to be entitled to receive his average monthly compensation.
- 64.2 Allowances and payments payable in the cases specified in Article 35, except as otherwise provided in Article 64.1, shall be governed by this law, related laws, collective agreements and bargaining and contract of employments.

**Article 65. Compensation in the case of a transfers to another location**

- 65.1 When an employee is transferred to another organization in another aimag, city, soum or khoroo, transportation expenses and per diem allowances for the employee and his or her family shall be paid by the organization to which the employee is transferring.

**Article 66. Payments during absence from work due to a good reason**

- 66.1 An employee who is unable to go to his workplace because of a natural or public disaster, or another good reason, shall be entitled to receive 50% of his or her basic compensation for the duration of his absence.
- 66.2 If the employee is engaged in remedial activities related to the consequences of any such disaster or public disturbance specified in Article 66.1, he or she shall be entitled to receive his or her basic compensation.

**Article 67. Compensation during reduced hours of work**

- 67.1 Reduced hours of work of an employee, as provided in Articles 71.1, 71.2, and 71.4, shall be considered hours worked and the employee shall be entitled to receive compensation based on his or her average compensation rate.
- 67.2 An employee whose hours of work have been reduced as provided in Articles 71.3 and 71.5, shall be entitled to receive compensation calculated on the grounds of his or her average compensation over the previous 6 months.

**Article 68. Difference in compensation of an employee transferred to another job not contrary to his or her health**

- 68.1 If a pregnant or breast-feeding employee is transferred to other work for health reasons, and her compensation is reduced because of the nature of the work to which she has been transferred as specified in Article 107.1, she shall be entitled to receive, in addition to her new compensation, the difference between her new compensation and previous compensation.
- 68.2 If an employee is transferred to other work for health reasons, as provided in Article 34, and his or her compensation has been reduced because of the nature of the work to which he or she has been transferred, he or she shall be entitled to receive, in addition to his new compensation, the difference between his or her new compensation and their previous average compensation for the previous 6 months.

**Article 69. Payments for unjustified dismissal or transfer**

- 69.1 If an employee is subsequently reinstated to his or her previous job or position as provided in Article 32.1.2, he shall be entitled to receive, with respect to the period he or she was out of work or working at a reduced rate of compensation, the compensation at his previous compensation rate or the difference between his or her previous compensation rate and reduced compensation rate.

**CHAPTER FIVE**

**HOURS OF WORK AND REST**

**Article 70. Work hours**

- 70.1 The hours of work per week shall not exceed 40 hours.
- 70.2 The length of a normal working day shall not exceed 8 hours.
- 70.3 The period of uninterrupted rest between two consecutive working days shall not be less than 12 hours.

**Article 71. Reduction of work hours**

- 71.1 The hours of work per week of employees 14 to 15 years of age shall not exceed 30 hours, and for employees 16 to 17 years of age shall not exceed 36 hours.
- 71.2 If, following an evaluation of an employer's workplace by labour standards organization or professional organization, an authorized organization has made a determination with respect to abnormal working conditions, the employer shall adjust his work hours to conform to such determination.
- 71.3 The hours of work of an employee shall be reduced if ordered by the relevant medical - labour committee.
- 71.4 The employer shall reduce the work hours of employees who are attending an industrial professional training or retraining course.
- 71.5 Work hours may be reduced for Disabled or dwarf employees, with consideration of their opinion, depending on the nature of work they are performing.

**Article 72. Night hours**

- 72.1 The period from 10 pm to 6 am, local time, shall be considered night hours.

**Article 73. Aggregation of hours of work**

- 73.1 If, depending on the nature of the work, it is impossible to follow daily or weekly working hours, working hours may be calculated on the grounds of aggregate hours worked.
- 73.2 Aggregate hours calculated pursuant to Article 73.1 shall not exceed the aggregate number of hours the employee would have worked based on normal daily or weekly working hours.
- 73.3 The Government shall promulgate regulations governing the calculation of aggregate hours of work.
- 73.4 Following the permitted practice of calculating aggregate working hours shall not limit the employee's vacation rights or adversely affect calculation of the timing of social benefit withholding payments.

**Article 74. Prohibitions with respect to overtime work**

- 74.1 If, at the initiative of the employer, the hours of work per day exceed the hours per day established in the relevant internal labour regulations, it shall be deemed overtime work.

- 74.2 Unless otherwise agreed in the relevant collective agreement or contract of employment, compelling an employee to perform overtime work is prohibited, except in the following circumstances:
- 74.2.1 if an employer requires an employee to perform work necessary for the defence and protection of the country, or to preserve human life or health;
  - 74.2.2 if it is necessary to perform work to prevent natural disasters, public disturbances or industrial accidents, or to take remedial action with respect to the consequences of such occurrences;
  - 74.2.3 if it is necessary to perform work to prevent disruption of water, electric, heating supply, transportation or communication facilities;
  - 74.2.4 if urgent and unforeseen circumstances require that work be completed without delay in order to prevent disruption of the normal functions of a business entity or organisation, or its branches or units.
- 74.3 An employee shall not be compelled to work two consecutive work-shifts.

**Article 75. Breaks for rest and meals**

- 75.1 An employee shall be given work-breaks for eating and rest.
- 75.2. The time for starting and finishing breaks shall be established by relevant internal labour regulations.
- 75.3. An employee who cannot have a break due to a feature or the nature of the work or duties, shall be provided by an employer with an opportunity to have a meal.

**Article 76. Public holidays**

- 76.1 The following are designated as public holidays:
- 76.1.1 New Year's Day -- 1<sup>st</sup> of January;
  - 76.1.2 White Moon days (2 days) -- the beginning of the first spring month according to the lunar calendar;
  - 76.1.3 Mother's and children's day -- 1<sup>st</sup> of June;
  - 76.1.4 National Naadam holiday. Anniversary of the Mongolian People's Revolution -- 11<sup>th</sup>, 12<sup>th</sup> and 13<sup>th</sup> of July;
  - 76.1.5 Day of the Proclamation of the People's Republic --26<sup>th</sup> of November.

**Article 77. Weekly days of rest**

77.1 Saturday and Sunday are public days of rest.

77.2 When an employee is not able to rest on Saturday and Sunday due to the specific nature of his work, he shall be given two consecutive rest days on other days of the week.

**Article 78. Work restrictions on public holidays and rest days**

78.1 An employer may not require an employee to perform work on public holidays or rest days except in the following circumstances:

78.1.1 under circumstances provided for in Articles 74.2.1, 74.2.2, 74.2.3 and 74.2.4 of this law;

78.1.2 where continuous production must be maintained, work in connection with the provision of public services, urgent repair work, or loading and unloading activities that cannot be postponed.

78.2 An employee may agree with his employer to work during public holidays and on weekly days of rest.

78.3 In circumstances referred to in article 78.2, another rest day may be provided to the employee or added to the period of his or her annual vacation.

**Article 79. Regular vacation**

79.1 An employee shall be entitled to an annual vacation.

79.2 The basic period of an annual vacation shall be 15 working days.

79.3 The basic period for an annual vacation of an employee under 18 years of age shall be 20 working days.

79.4 An employee may take his or her annual vacation in separate parts during the year.

79.5 In addition to the basic annual vacation, employees working under normal working conditions shall be awarded additional vacation days based on length of employment as follows:

79.5.1 6-10 years of work - 3 working days

79.5.2 11-15 years of work - 5 working days

79.5.3 16-20 years of work - 7 working days

79.5.4 21-25 years of work - 9 working days

- 79.5.5 26-31 years of work - 11 working days
- 79.5.6 32 or more years of work - 14 working days
- 79.6 In addition to the basic vacation, employees working under abnormal working conditions as determined in the relevant collective agreement shall be awarded additional vacation days based on length of employment as follows:
  - 79.6.1.1 6-10 years of work - at least 5 working days
  - 79.6.1.2 11-15 years of work - at least 7 working days
  - 79.6.1.3 16-20 years of work - at least 9 working days
  - 79.6.1.4 21-25 years of work - at least 12 working days
  - 79.6.1.5 26-31 years of work - at least 15 working days
  - 79.6.1.6 32 or more years of work - at least 18 working days
- 79.7 Supplemental vacation days for civil servants shall be established by other relevant laws.

**Article 80. Granting leave**

- 80.1 If requested by the employee, an employer may grant leave to the employee.
- 80.2. The criteria for providing payment during this leave shall be determined by relevant internal labour regulations, collective agreements and contract of employment.

**CHAPTER SIX**

**WORKING CONDITIONS, SAFETY AND SANITATION STANDARDS**

**Article 81. Classification of working conditions**

- 81.1 Working conditions shall be classified as normal or abnormal.
- 81.2 An employer shall retain an authorized professional organization to evaluate workplace conditions.
- 81.3 Regulations governing the conclusion of pensions with special concessions for employees working under abnormal working conditions shall be adopted by law.

**Article 82. Conclusion of labour safety and sanitation standards**

- 82.1 The organization in charge of standards, in co-operation with the State central administrative organ in charge of labour issues, shall establish labour safety and sanitation standards, in accordance with relevant legislation.
- 82.2 Common regulations concerning labour safety and sanitation shall be approved by the State central administrative organ in charge of labour issues.

**Article 83. General workplace requirements**

- 83.1 The organization of work shall meet the requirements of the relevant production technology and comply with applicable safety and sanitation requirements.
- 83.2 Toxic or hazardous chemical, physical, or biological conditions in the workplace shall not exceed the permitted labour and sanitation standards established by the organization specified in Article 82.1.
- 83.3 The workplace of the employee shall be equipped as specified in applicable sanitation standards.

**Article 84. Requirements for production buildings and facilities**

- 84.1 The design of production buildings and facilities, and proposals for construction, renovation, expansion and the hand-over for use of such facilities, shall be approved and licensed by the relevant professional organization in charge of labour safety and sanitation.

**Article 85. Requirements in the case of joint ownership of production buildings and facilities**

- 85.1 If production buildings or facilities are owned by two or more employers, the owners shall ensure that the following requirements are met:
- 85.1.1 the owners shall jointly establish and implement safety regulations;
  - 85.1.2 if hazardous or toxic chemicals, poisons, explosives, or radioactive or biologically active substances are used in the course of production, the owners of the buildings and facilities shall inform each other and take measures to ensure compliance with applicable safety regulations.
- 85.2 If the requirements specified in Article 85.1 are not met, joint ownership of the production buildings and facilities shall be prohibited.

**Article 86. Requirements with respect to machinery and equipment**

- 86.1 Machinery and equipment shall be used in accordance with applicable safety regulations and a technical manual shall be maintained for such machinery and equipment.

- 86.2 The installation of machinery and equipment, and continued use after major repairs have been made to such machinery and equipment, must be examined and approved by the relevant professional monitoring organization.
- 86.3 Machinery for lifting and transportation, as well as pressurized containers, pipes and channels, must be periodically tested and certified as safe, in accordance with the relevant regulations.
- 86.4 Electrical equipment must be installed as specified in applicable project documents and comply with all applicable use and safety requirements.

**Article 87. Requirements for special work garments and protective equipment**

- 87.1 If the nature of an employee's work so requires, an employer shall provide the employee with appropriate special work garments and protective equipment in compliance with applicable safety and sanitation requirements.
- 87.2 The employer shall clean, disinfect, and repair the special work garments and protective equipment.

**Article 88. Requirements with respect to chemical, poisonous, explosive, radioactive, and biologically active substances**

- 88.1 An employer shall inform the labour monitoring organization, and other relevant professional organizations, of the employer's use of chemical, poisonous, explosive, radioactive, or biologically active substances in production and shall comply with applicable regulations established by such authorized organizations.

**Article 89. Fire safety requirements**

- 89.1 An employer shall adopt and comply with internal fire safety rules.
- 89.2 Business units and organizations with fire alarm systems and fire extinguishers shall keep such equipment in constant working order and train their employees in the use of such equipment.
- 89.3 An employer shall take all required measures necessary to prevent fire in the course of production.

**Article 90. Requirements with respect to work under unfavourable weather conditions**

- 90.1 In compliance with applicable labour standards, an employer shall establish, equip and make comfortable a special place for employees who work outdoors or in building without heat, to rest and warm up during break times.

**Article 91. Provision of favourable working conditions**

- 91.1 An employer shall provide an employee with favourable working conditions and ensure that chemical, physical and biological conditions resulting for production processes will not have a negative impact on safety, sanitation, or the natural environment.
- 91.2 An employer shall provide employees working under abnormal working conditions with protective equipment, special working garments, and poison antidotes.
- 91.3 An employer shall specify in annual work plans and collective agreements the amount of funds to be spent to ensure compliance with applicable safety and sanitation requirements.

**Article 92. Health examinations**

- 92.1 An employer shall arrange for employees to receive regular preventative health examinations necessary for and related to their work performance in accordance with regulations promulgated by authorized organizations.
- 92.2 Expenses with respect to the health examinations referred to in Article 92.1 shall be borne by the employer.

**Article 93. Offices and councils in charge of labour safety and sanitation issues**

- 93.1 A business entity or organization shall have an appointed employee, or a council consisting of representatives of the employer and employees, in charge of safety and sanitation issues.
- 93.2 Regulations governing labour safety and sanitation requirements shall be adopted by the State administrative central organ in charge of labour issues.

**Article 94. Suspension of work in case of conditions with a negative influence on life and body**

- 94.1 If, in the course of performance of his work, the production safety regulations have been violated, or any situation which threatens his or her life or health occurs, an employee shall stop work and notify the employer of the circumstances.
- 94.2 An employer shall immediately take steps to correct the violations and conditions, specified in Article 94.1 of this law.

**Article 95. Registration of industrial accidents, occupational diseases, and acute poisonings**

- 95.1 An employer shall immediately, and at the employer's expense, transport an employee who has been injured in an industrial accident to a hospital and shall take steps to correct the cause and results of the accident.
- 95.2 In accordance with regulations adopted by the Government, an employer shall investigate and report every industrial accident and appoint a steering committee to determine the cause of the accident.
- 95.3 The findings of the committee with respect to the industrial accident shall be reviewed and approved by the State labour inspectors.
- 95.4 If an employer does not comply with the provisions of articles 95.2 and 95.3, or if an employee does not agree with the conclusions as to the cause of the industrial accident, the employee may submit his views to the relevant State labour supervisory authority.
- 95.5 An employer shall be obligated to implement the decision made upon the consideration of such complaint pursuant to Article 95.4 of this law.
- 95.6 The business entity or organization where the accident happened shall be responsible for the expenses incurred in connection with the investigation and reporting of the industrial accident.
- 95.7 Occurrences of occupational diseases and acute poisoning shall be considered as equivalent to industrial accidents, and the relevant labour supervisory authority shall investigate and report such occurrences and shall take such other measures as may be appropriate.
- 95.8 An employer shall provide all pertinent information the employer has concerning an industrial accident, or the occurrence of an occupational disease or poisoning.
- 95.9 Concealment of the occurrence of professional diseases, poisoning or industrial accidents is prohibited.
- 95.10 Regulations governing the investigation and registration of industrial accidents or the occurrence of professional diseases or poisoning shall be approved by the Government.

**Article 96. Professional diseases**

- 96.1 The state central administration organization in charge of health issues shall publish a list of professional diseases.
- 96.2 The criteria for defining an occupational disease shall be determined by the relevant professional organization.

**Article 97. Compensation for damage caused by industrial accidents, poisoning or professional diseases**

- 97.1 Without taking into account whether an employee was covered by insurance for injuries sustained as a result of an industrial accident, professional disease, or acute poisoning, an employer shall compensate such employee, or the employee's family if the employee has died as a result of the industrial accident, professional disease, or poisoning, in the following manner:
- 97.1.1 an employee who has lost up to half of his ability to work because of an industrial accident, professional disease or poisoning, shall be paid compensation in an amount equal to his or her average monthly compensation for a period of not less than 9 months; and an employee who has lost all ability to work shall be paid compensation equal to his or her average monthly compensation for a period of 18 months;
- 97.1.2 the family of an employee who has died because of an industrial accident, poisoning, or occupational disease, shall be paid compensation equal to not less than the deceased employee's average compensation for 36 months.
- 97.2 Provision of compensation pursuant to Article 97.1 shall not affect the pensions or other benefits to which an injured employee may be entitled under social insurance law or other laws.
- 97.3 Collective agreements shall provide for the indexing of compensation payable to changes in the minimum standard of living.

**Article 98. Labour and Medical Examination Commission**

- 98.1 Determinations as to the reason for and extent of impairment of an injured employee with respect to the performance of his work shall be made by the Labour and Medical Examination Commission.
- 98.2 The charter of the Labour and Medical Examination Commission shall be adopted by the Government.

**Article 99. Suspension and termination of activities of business units and organizations that fail to meet labour safety and sanitary standards**

- 99.1 If it is determined that the activities of a business entity or organization are having an adverse impact on the health or safety of employees, the relevant labour supervisory authority, or an authorized State supervisor, may direct the employer to take appropriate action to remedy this condition.
- 99.2 If the adverse conditions referred to in Article 99.1 are not remedied by the employer, the relevant labour supervisory authority or authorized State supervisor may order termination of the employer's business activities or suspension of such activities until the conditions have been remedied or may terminate such business activities permanently.

## **CHAPTER SEVEN**

### **EMPLOYMENT OF WOMEN**

#### **Article 100. Prohibition on dismissing pregnant women, mothers of children under the age of 3 (and single fathers)**

100.1 An employer may not terminate the employment of a pregnant woman or a woman with a child under 3 years of age except in the event of dissolution of the employer's business entity or organization or under circumstances described in Articles 40.1.4 and 40.1.5.

100.2 Article 100.1 of this law shall also apply to a single father with a child under three years of age.

#### **Article 101. Work prohibited to be performed by women**

101.1 A list of work that women are prohibited to perform shall be approved by the Member of the Government responsible for labour matters.

#### **Article 102. Restriction on night and overtime work and assigned trips**

102.1 Without first obtaining the employee's consent, an employer may not require a pregnant woman, or a mother of a child under 8 years of age, or a single mother of a child under 16 years of age, to work at night, or to perform overtime work, or to take trips away from the locality of her workplace.

102.2 Article 102.1 of this law shall also apply to a single father with a child under 16 years of age.

#### **Article 103. Provision of breaks for breast-feeding and child care**

103.1 In addition to the regular rest breaks to which an employee is entitled, an additional break of two hours for child care and feeding shall be provided to a woman with a child under six months of age or with twins under one year of age; and an additional break of one hour shall be provided to a woman with a child between the ages of six months and one year, or with a child who is more than one year of age but needs special care as determined by relevant medical authorities.

103.2 Article 103.1 of this law shall also apply to a single father with a child.

103.3 The additional break times for feeding and caring of children shall be deemed to be, and included in, the calculation of the employee's hours of work.

**Article 104. Maternity leave**

104.1 A mother shall be granted maternity leave for a period of 120 days.

104.2 The maternity leave specified in Article 104.1 shall also be granted to a woman who has delivered a stillborn child or has interrupted a pregnancy pursuant to hospital procedures after the 196<sup>th</sup> day of pregnancy, or to a woman who has delivered a baby before the 196<sup>th</sup> day of pregnancy who is able to live.

104.3 If a woman employee has a stillborn child, or has interrupted a pregnancy pursuant to hospital procedures before the 196<sup>th</sup> day of pregnancy, she shall be entitled to sick leave in accordance with applicable regulations.

**Article 105. Leave for an employee who has adopted a new-born child**

105.1 A mother who has adopted a new-born child shall be entitled to the same leave as a mother who gives birth to a child, until the child reaches 60 days of age.

105.2 Article 105.1 of this law shall also apply to a single father who adopts a new-born child.

**Article 106. Child care leave**

106.1 At the request of an employee who is a mother with a child under three years of age, an employer shall grant her child care leave.

106.2 On the expiration of the period of child care leave, or prior to such expiration if requested by the employee, the employer shall allow the mother to resume her previous work or position and, if her work or position has been eliminated or the staff has been reduced, the employer shall assign her to another job or position.

106.3 Articles 106.1 and 106.2 shall also apply to a single father with a child under three years of age or a single person who has adopted a child under three years of age.

**Article 107. Reduction of hours of work, or transfer to another job, of a pregnant woman or a woman who is breast-feeding a child**

107.1 The working hours of a pregnant woman, or a woman who is breast-feeding a child, shall be reduced, or she shall be transferred to other work not hazardous to her health, if relevant medical authorities determine that such action is appropriate.

**Article 108. Limitations on the weight carried by women**

108.1 A woman employee may not be required to lift or carry loads that exceed weight limitations established by the Member of the Government responsible for labour matters.

## **CHAPTER EIGHT**

### **EMPLOYMENT OF MINORS, DISABLED PERSONS, DWARFS, AND ELDERLY PERSONS PEOPLE**

#### **Article 109. Employment of minors**

- 109.1 A person who reaches 16 years of age has the right to conclude an contract of employment.
- 109.2 Except as otherwise provided in Article 109.5, a person who reaches 15 years of age may conclude an contract of employment, if permitted by his parents or guardians.
- 109.3 A person who reaches 14 years of age may enter into an contract of employment for the purpose of acquiring vocational training and work experience, but only with the consent of his parents or guardians and the State central administration organization in charge of labour issues.
- 109.4 An employer shall not employ a minor in a job which will adversely affect his intellectual development or health.
- 109.5 A list of work for which a minor may not be employed shall be established by the Member of the Government responsible for labour matters.

#### **Article 110. Protection of the health of a minor employee**

- 110.1 A minor employee may be employed subject to the approval of the relevant medical authority after he  
has undergone a medical examination, and further biennium medical examinations shall be required until he reaches 18 years of age.
- 110.2 A minor employee may not be required to perform overtime work or to work on public holidays or weekends.
- 110.3 A minor employee may not be required to perform work under abnormal working conditions.
- 110.4 A minor employee may not be required to lift or carry loads that exceed weight limitations established  
by the Member of the Government responsible for labour matters.

#### **Article 111. Employment of Disabled persons and dwarfs**

- 111.1 If an employer has more than 50 employees, at least 3 percent of such employees must include Disabled persons or dwarfs, unless it is justified to exclude such persons because of the nature of the employer's business.

- 111.2 If a business entity or organization does not employ Disabled persons or dwarfs as required by Article 111.1, it shall pay a monthly payment to the State with respect to each such employee they should have employed.
- 111.3 The amount of the payment referred to in Article 111.2 shall be determined by the Government.
- 111.4 Payments specified in Article 111.2 shall be deposited in the State Treasury and set aside for expenditure exclusively for social benefits and protection of the rights of Disabled persons and dwarfs.
- 111.5 An employer may not refuse to employ a Disabled person or a dwarf unless the condition of such person prevents him from performing a specified activity or would otherwise be contrary to established working conditions at the workplace.

**Article 112. Labour of the elderly persons**

- 112.1 An elderly persons person who receives a pension may also perform work as an employee.
- 112.2 Receipt of a pension by an elderly persons person shall not be grounds for limiting his compensation.
- 112.3 At the request of an elderly persons person, an employer may reduce his working hours or transfer such person to work that will not adversely affect his health.

**CHAPTER NINE**

**EMPLOYMENT OF FOREIGN CITIZENS AND CITIZENS  
WORKING IN FOREIGN BUSINESS UNITS OR ORGANIZATIONS**

**Article 113. Employment of foreign citizens**

- 113.1 An employer may employ a foreign citizen pursuant to an contract of employment.
- 113.2 Regulations governing the employment of foreign citizens in Mongolia in accordance with this law and other applicable laws shall be adopted by the Government.
- 113.3 Articles 113.1 and 113.2 shall also apply to stateless persons.

**Article 114. Employment of citizens working for foreign business  
entities and organizations**

- 114.1 Foreign business units and organizations conducting activities within the territory of Mongolia may employ Mongolian citizens.

114.2 In the case of employment specified in Article 114.1, the employer shall enter into a contract of employment with the employee in accordance with this law.

114.3 A foreign business entity or organization that employs an employee pursuant to a contract of employment shall inform the relevant authorized organization or officer responsible for labour matters about the employee's compensation and other similar income.

## **CHAPTER TEN**

### **REGULATION OF COLLECTIVE LABOUR DISPUTES**

#### **Article 115. Initiating collective labour disputes and submitting and responding to claims**

115.1 Representatives of the employees shall have a right to initiate collective labour dispute processes in connection with issues that cannot be resolved during the negotiation of collective agreements and bargaining pursuant to Article 12.5, and to submit claims and demands for compliance with the provisions of such contracts.

115.2 Claims and demands from one party to the dispute shall be in writing form and delivered to the other party.

115.3 One copy of the claims and demands shall be delivered to the Governor of the relevant territorial unit.

115.4 A party receiving such claims and demands shall deliver a reply in written form to the other party within 3 working days.

#### **Article 116. Reconciliation of collective labour disputes**

116.1 Collective labour disputes shall be reconciled and settled in the following manner:

116.1.1 by utilizing intermediaries;

116.1.2 by having the issues resolved by a labour arbitration court.

116.2 The parties may not refuse to participate in the reconciliation procedures specified in Article 116.1.

116.3 Representatives of the employees shall have the right to organize meetings and lawful demonstrations in support of their claims and demands.

116.4 Representatives of the employees, intermediaries and labour arbitrators must make every possible effort to settle collective labour disputes through the reconciliation process.

**Article 117. Inviting intermediaries to take part in the settlement of collective labour disputes**

- 117.1 If an employer, within the period of time specified in Article 115, does not respond to a claim or demand submitted to it, or if the representatives of the employees determine that the employer's reply is not acceptable, an intermediary shall be invited to participate in the collective labour dispute reconciliation process.
- 117.2 If the parties are unable to agree with respect to the appointment of an intermediary, the Governor of the relevant soum or district shall be requested to appoint such intermediary.
- 117.3 Upon the receipt of such request, the Governor of the relevant soum or district shall appoint an intermediary within 3 working days.
- 117.4 The parties shall have no right to refuse to accept the intermediary appointed by the Governor.
- 117.5 Regulations governing settlement of collective labour disputes with the participation of an intermediary shall be approved by the Government.
- 117.6 An intermediary has the right to demand that the parties to the dispute provide him with relevant documents and information concerning the collective labour dispute.
- 117.7 Within 5 working days after the appointment of the intermediary, the parties to the dispute and the intermediary shall consider the issues and produce a written decision that they have resolved the issues or that they have been unable to reach agreement and, in either event, the intermediation process shall be deemed to be completed.

**Article 118. Consideration of collective labour disputes by a labour arbitration court**

- 118.1 If, following completion of the intermediation process, the parties have not come to an agreement, the Governor of the relevant territory shall, within 3 working days, establish a labour arbitration court and appoint arbitrators to consider the collective labour dispute.
- 118.2 The labour arbitration court shall consist of 3 arbitrators, one designated by each of the parties participating in the collective labour dispute and one by the Governor of the relevant soum or district.
- 118.3 The parties shall have no right to reject the arbitrator appointed by the Governor.
- 118.4 Representatives of the parties participating in the collective labour dispute shall not be eligible to be members of the labour arbitration court.
- 118.5 Within 5 working days after its conclusion, the labour arbitration court shall discuss the collective labour dispute with representatives of the parties and issue a recommendation.

- 118.6 If the parties to the collective labour dispute agree to accept and adopt the recommendation of the arbitration court, they shall conclude a settlement to this effect.
- 118.7 The parties shall be obligated to implement any settlement agreed to pursuant to Article 118.6.
- 118.8 Parliament shall adopt a charter for conclusion of the labour arbitration court, based on recommendations prepared by the National Tripartite Committee of Labour and Social Consent.

#### **Article 119. Exercising the right to strike**

- 119.1 Representatives of employees have the right to strike in the following circumstances:
- 119.1.1 if an employer fails to participate in reconciliation measures as provided in Article 116.1.
  - 119.1.2 if an employer fails to comply with a settlement reached following processes involving the participation of an intermediary;
  - 119.1.3 if an employer fails to comply with a settlement based on acceptance of a recommendation made by the labour arbitration court;
  - 119.1.4 if, even though the collective labour dispute was discussed by the labour arbitration court, its recommendation was not accepted or a decision was not issued.
- 119.2 An employee shall participate in the strike voluntarily.
- 119.3 An employee may not be compelled to participate in a strike, or to not participate in a strike, or to continue a strike, or to stop a strike, except as otherwise provided by law.
- 119.4 Representatives of an employer may not participate in a strike or in organizing a strike.

#### **Article 120. Announcing a strike or temporary denial of access to the workplace**

- 120.1 A decision to strike shall be made at a meeting of the organization representing and protecting employees' rights and legal interests, or a meeting of all employees.
- 120.2 A meeting of the employees, or a meeting of members of the organization representing and protecting the employees' rights and legal interests, shall be deemed to have a quorum if it is attended by an overwhelming majority (two-thirds) of the employees or of the members of the organization representing and protecting the employees' rights and legal interests.

- 120.3 A strike may be announced if a majority of the employees attending the meeting, or a majority of the members of the organization representing and protecting the employees' rights and legal interests attending the meeting, approves the proposal to strike.
- 120.4 The following matters shall be included in an announcement of the declaration to strike:
- 120.4.1 the issue that has caused the strike;
  - 120.4.2 date and time of commencement of the strike, the proposed duration of the strike, and a preliminary estimate of the number of participants;
  - 120.4.3 the name(s) of the person(s) in charge of organizing and coordinating the strike, and the composition of the representatives of the employees who will participate in any settlement negotiations;
  - 120.4.4 a statement concerning actions taken to ensure the health and safety of people during the strike.
- 120.5 The person(s) organizing a strike must deliver notice of the decision to strike to the employer at least five working days prior to commencement of the strike.
- 120.6 If an employer does not accept the employees' demands, it may temporarily deny access to the workplace by employees participating in the strike.
- 120.7 In order to prevent an employer from temporary employing other employees at the workplace during a strike, representatives of the employees may temporarily deny access to the workplace.
- 120.8 An employer shall inform customers, suppliers and other persons who may be affected by a strike or temporary denial of access to the workplace, at least 3 working days prior to the event.
- 120.9 Third parties are prohibited from participating in organizing a strike or temporary denial of access to the workplace, or in settlement negotiations, or in interfering with the disagreeing parties' exercise of free will, except as provided in this law.
- 120.10 Throughout the duration of any strike, the participants must use their best efforts to resolve the disputed matters.
- 120.11 The party organizing a strike or temporary denial of access to the workplace must, with the assistance of relevant State organizations, take measures to ensure public order, health and safety, and protection of property.

**Article 121. Parties which may organize, suspend and terminate a strike**

- 121.1 A strike may only be organized by representatives of the employees.

- 121.2 Person(s) organizing a strike have a right to call a meeting of the employees, to be furnished by the employer with information related to the employees' rights and legal interests, and to invite an expert to advise the employees concerning the disputed matters.
- 121.3 Person(s) organizing a strike have a right to temporarily suspend the strike.
- 121.4 The fact that a suspended strike has been resumed shall not be taken into account by the labour arbitration court specified in Article 116.1 in reaching its decisions.
- 121.5 If a decision is made to revive the strike, the employer must be notified at least 3 working days prior to such revival.
- 121.6 A strike shall be considered terminated when the parties have signed a settlement agreement or when it has been declared illegal.

**Article 122. Prohibition, postponement, or temporary suspension of a strike**

- 122.1 It is prohibited to organize a strike at organizations responsible for State defense, national security, or public order.
- 122.2 It is prohibited to organize a strike while negotiations of a collective dispute are in process, or the dispute is being considered by an intermediary, labour arbitrator or the courts.
- 122.3 If a direct threat to human life and health has occurred, the court shall have the right to postpone a strike for up to 30 days or, if the strike has already commenced, to temporarily suspend it for the same time period.
- 122.4 If a strike at any entity responsible for the supply of public electric power and heating, public water, public transport, or international or inter-city telecommunications or railway traffic, threatens the security of the State, or the human rights or freedom of individuals, the Government may postpone the strike until the court issues a decision in this regard, but in no event for more than 14 days.

**Article 123. Illegal strikes and denials of access to the workplace**

- 123.1 A strike organized as a result of a collective labour dispute shall be considered illegal in the following cases:
- 123.1.1 if the provisions of Article 119.1 have been violated;
  - 123.1.2 if the strike has been organized at any organization specified in Article 122.1;
  - 123.1.3 if a strike has been organized in connection with matters not related to relations regulated by the collective agreement specified in Articles 18 and 19.

123.2 A party that considers the organization of a strike or temporary denial of access to the workplace to be illegal, may file a complaint with the court.

123.3 The court shall decide whether a strike or temporary denial of access to the workplace is illegal.

123.4 If the court decides that the strike or temporary denial of access to the workplace is illegal, the parties shall immediately stop such activities.

**Article 124. Guarantee of the rights of employees involved in settlement of a collective labour dispute**

124.1 Employees who are acting as intermediaries or labour arbitrators in connection with the settlement of a collective labour dispute shall be granted a leave of absence from their primary work, and shall continue to be entitled to receive their average compensation, during their participation in the settlement of the dispute.

124.2 An employer shall not fire, transfer, or impose disciplinary measures on any employee acting as an employee representative during the settlement of a collective labour dispute.

124.3 An employer shall not fire, transfer, or impose disciplinary measures on any employee who participates in a strike not declared illegal.

124.4 During the settlement of a collective labour dispute, a party may decide to provide compensation to employees who participated in the strike.

124.5 If a court determines that a strike or temporary denial of access to the workplace is illegal, an employee who has not participated in the strike, but has not been able to perform his work because of the strike or denial of access to the workplace, shall be entitled to receive his average compensation.

**CHAPTER ELEVEN**

**INDIVIDUAL LABOUR DISPUTES**

**Article 125. Resolution of an individual labour dispute**

125.1 Individual labour disputes between an employer and an employee shall be resolved by the labour dispute settlement commission or the courts, within their respective jurisdictions.

**Article 126. Labour disputes to be resolved by the Labour Dispute Settlement Commission**

126.1 The Labour Dispute Settlement Commission shall initially investigate and resolve labour disputes, except those referred to the court pursuant to law.

126.2 The charter of the Labour Dispute Settlement Commission shall be established by the Government.

**Article 127. Appealing a decision of the Labour Dispute Settlement Commission**

127.1 If either an employer or employee does not agree with a decision of the Labour Dispute Settlement Commission, such employer or employee shall have a right to appeal the decision to the relevant soum or district court within 10 days following the delivery of the decision.

**Article 128. Labour disputes to be decided by the court**

128.1 The following labour relations disputes shall be decided by the court:

128.1.1 an appeal made pursuant to Article 127;

128.1.2 a complaint by an employee concerning wrongful dismissal or wrongful transfer to other work by his employer;

128.1.3 an employer's claims for compensation for loss or damage to the employer's business caused by the failure of an employee to fulfill his work obligations;

128.1.4 an employee's claims for compensation for damage to his body or health while fulfilling his work obligations;

128.1.5 a dispute pertaining to matters specified in Article 69;

128.1.6 a dispute pertaining to an contract of employment between citizens;

128.1.7 an employee's complaint concerning wrongful imposition of disciplinary punishment;

128.1.8 an employee's claim that his contract of employment contains provisions that do not meet the requirements of the Labour Code or the applicable collective agreement;

128.1.9 an employee's claim that the employer's internal labour regulations do not comply with the Labour Code;

128.1.10 a labour dispute between persons who have undertaken to work together by combining their property and labour, unless otherwise provided in law or the applicable contract;

128.1.11 other disputes that are within the jurisdiction of the court in accordance with applicable laws.

**Article 129. Time limit for submitting a complaint concerning a labour dispute**

- 129.1 Except as provided in Article 129.2, a party to a contract of employment must submit any complaints to the labour dispute settlement commission within 3 months following the date on which the party knew or should have known of the matter in dispute.
- 129.2 An employee shall submit to the appropriate court any complaint concerning wrongful dismissal or wrongful transfer to other work within 1 month following the date he received the applicable decision from the employer.
- 129.3 Even if the limitation periods specified in this Article have expired, the court may reinstate the time limitation period, if there are reasonable grounds for the failure to timely file the complaint within the specified period.

**CHAPTER TWELVE**

**INTERNAL LABOUR REGULATIONS, LABOUR DISCIPLINE AND MATERIAL LIABILITY**

**Article 130. Internal labour regulations**

- 130.1 After taking into account proposals or suggestions from the employees' representatives, an employer shall establish and enforce internal labour regulations in accordance with the law.
- 130.2 The internal labour regulations shall set forth the organization of labour, the rights and obligations of the employer and employees, and the penalties for non-compliance.
- 130.3 Special rules with respect to discipline may be approved and enforced by the relevant State organization.

**Article 131. Labour disciplinary punishment**

- 131.1 An employer, or his lawful representative, or an authorized official shall, by resolution, impose the following types of disciplinary punishment on an employee who has breached the applicable contract of employment or internal labour regulations:
- 131.1.1 issue a warning to the employee;
  - 131.1.2 withhold up to 20 percent of the employee's compensation for a period of up to 3 months;
  - 131.1.3 terminate the employment of the employee.
- 131.2 Disciplinary punishment may only be imposed on an employee within 6 months following the disciplinary breach and within 1 month following the discovery of the breach.

131.3 It is prohibited to impose multiple forms of disciplinary punishment for one disciplinary breach.

131.4 Upon the expiration of a period of one year following the imposition of disciplinary punishment, records of the disciplinary action shall be erased.

**Article 132. Grounds for imposing material liability**

132.1 Material liability may be imposed on an employee who, in the course of work, has caused material loss or damage to his employer by his fault, even though disciplinary, administrative, or criminal penalties have also been imposed on the employee.

132.2 The amount of such loss or damage shall be determined by the actual loss, not including loss of potential profits.

132.3 An employee shall not be responsible for inevitable loss or damage incurred during the testing or commissioning of machinery.

132.4 An employee shall not be responsible for loss or damage caused by the failure of the employer to comply with the applicable safety regulations for the assets for which the employee was responsible.

**Article 133. Limited material liability**

133.1 Except as specified in Article 135, limited material liability imposed on an employee, who caused loss or damage to his organization by his fault, shall not exceed the average monthly compensation of the employee.

**Article 134. Material liability imposed by an independent contract**

134.1 Except as specified in Article 135, an employee working under an independent contract who has caused material loss or damage to his employer by his fault, must pay his employer for such loss or damage, but in no event shall the amount of this required payment exceed the employee's average compensation for 6 months.

**Article 135. Full material liability**

135.1 Full material liability shall be imposed on an employee in the following cases:

135.1.1 If a court determines that the employee was criminally liable for inflicting the loss or damage;

135.1.2 if the law provides for imposition of full material liability on an employee who has caused loss or damage to his employer in the course of his work;

- 135.1.3 if an employee fails to return assets or valuable items released to him in advance pursuant to a power of attorney or similar document;
  - 135.1.4 if an employee, who has custodial responsibility, negligently fails to preserve and maintain working and safety tools, special clothing, and other work-related assets for which he was responsible;
  - 135.1.5 if, not in the course of performance of his work, an employee who is under the influence of alcohol or drugs has caused loss or damage to the employer.
- 135.2 Other regulations regarding material liability for loss or damage incurred as a result of embezzlement or misappropriation of certain assets shall be established exclusively by law.
- 135.3 The employer shall establish a schedule of jobs or positions where full liability may be imposed and the employer and employee shall enter into an agreement that such liability may be imposed.
- 135.4 If an agreement between the employer and employee concerning full material liability has not been concluded, and the matter has not been covered in the applicable contract of employment, it shall be prohibited to impose full material liability on the employee.

**Article 136. Determining the amount of loss or damage inflicted on the employer**

- 136.1 The amount of loss or damage incurred by the employer shall be the book value of the relevant asset, less accumulated depreciation.
- 136.2 If assets have been embezzled, or deliberately destroyed or damaged, the amount of loss or damage shall be the market value of such assets.
- 136.3 Loss or damage caused by more than one employee shall be allocated to each such employee based on the type of material liability and the degree of fault of each employee.

**CHAPTER THIRTEEN**

**MANAGEMENT AND ORGANIZATION OF LABOUR**

**Article 137. System of management of labour**

- 137.1 The system of management of labour shall consist of the state central administration organization in charge of labour matters, the employment and supervisory organizations, the employment offices of the aimag, capital city and district, and the labour inspector or officer of the relevant soum.
- 137.2 The state central administration organization in charge of labour issues shall be responsible to, and work under the guidance of, the Member of the Government responsible for labour matters and the local organizations shall be responsible to, and work under the guidance of, the relevant Governors.
- 137.3 The state central administration organization in charge of labour matters shall provide local organizations with professional and administrative guidance.
- 137.4 Governors at all levels shall, within the scope of their respective authorities, enforce the system of management of labour.

**Article 138. Tripartite National Committee of Labour and Social Consent**

- 138.1 A National Committee of Labour and Social Consent composed of representatives of the Government and national organizations representing the rights and legal interests of employees and employers shall be established within the Government.
- 138.2 The number of the representatives from the three parties shall be equal.
- 138.3 The charter of the National Committee shall be approved by the Government, with the consent of the national organizations representing the rights and legal interests of the employees and employers.
- 138.4 The Prime Minister shall appoint the chairman for a term of 6 years and the vice chairman of the National Committee and shall approve the composition of the National Committee; the vice chairman of the National Committee shall be appointed for a term of 2 years from among the representatives of the three parties, as agreed among such parties.
- 138.5 The National Committee shall exercise the following rights:
  - 138.5.1 to guide the development and enforcement of State policy concerning labour matters, and to develop the system of tripartite social consent;
  - 138.5.2 to settle collective disputes within the scope of protecting citizens' labour rights and associated economic, social, and legal interests;
  - 138.5.3 to monitor enforcement of the national agreement of social consent, and to consult on relevant economic and social policy issues;
  - 138.5.4 other rights set forth in law.

## **CHAPTER FOURTEEN**

### **LABOUR CODE MONITORING**

#### **Article 139. Monitoring the enforcement of labour legislation**

139.1 The following institutions shall monitor enforcement of the Labour Code:

- 139.1.1 national monitoring of labour matters shall be implemented by the State Ikh Khural, the Government, Governors of all territorial levels, organizations responsible for labour matters, and other organizations or officials authorized by law, within their respective jurisdictions;
- 139.1.2 the local Governor and monitoring offices shall implement labour monitoring at the aimag, capital city, soum or district level;
- 139.1.3 organizations representing and protecting the rights and legal interests of employees, non-government organizations, and the public shall monitor the enforcement of Labour Codes, within their respective jurisdictions.

#### **Article 140. Labour monitoring procedure**

140.1 The State office responsible for labour monitoring shall work under the guidance of the Member of Government responsible for labour matters and the local labour monitoring offices and State supervisors shall work under guidance of the Governor of the appropriate territorial level.

140.2 Labour monitoring procedures shall be regulated by rules of State labour inspection approved by the Government.

140.3 The rules of State labour inspection shall be approved by the Government.

## **CHAPTER FIFTEEN**

### **MISCELLANEOUS PROVISIONS**

#### **Article 141. Penalties for violation of the Labour Code**

141.1 If a violation of the Labour Code does not involve criminal liability, the following punishments shall be imposed:

- 141.1.1 If an employee has been illegally required to work, a judge shall impose a fine on an officer of from 5,000 to 30,000 togrogs, and shall impose a fine on a business entity of from 100,000 to 250,000 togrogs;

- 141.1.2 if an occupational disease, industrial accident, or poisoning has been concealed, the labour inspector or judge shall impose a fine on an officer of from 10,000 to 50,000 togrogs and shall impose a fine on a business entity of from 100,000 to 250,000 togrogs;
- 141.1.3 if there has been discrimination with respect to employment based on social origin, social status, nationality, race, sex, wealth, religion or political affiliation; or if limitations on or advantage for an employee have been created; or when hiring a citizen or in the subsequent labour relations the rights and freedoms of an employee have been limited in a manner unrelated to the nature of his work, a judge shall impose a fine on an officer of from 5,000 to 25,000 togrogs and shall impose a fine on a business entity of from 50,000 to 100,000 togrogs;
- 141.1.4 if the physical condition of a Disabled person or a dwarf does not prevent such person from performing work, or is not contrary to the working conditions in the workplace, and such person has been refused employment because of his physical condition, a judge shall impose a fine on an officer of from 5,000 to 25,000 togrogs and shall impose a fine on a business entity of from 50,000 to 100,000 togrogs;
- 141.1.5 if a business entity does not timely make the payment specified in Article 111.2, a State labour inspector or judge shall impose a fine on such business entity of from 50,000 to 100,000 togrogs;
- 141.1.6 if an officer has required women or minors to do work that is prohibited to be performed by them, or to lift or carry loads exceeding the prescribed limits, or has required an employee under 18 years age to work in a workplace that adversely affects his mental development or health, or in abnormal working conditions, or compelled them to perform overtime work or to work on public holidays or weekends in violation of Article 74, a State labour inspector shall impose a fine on that officer of from 15,000 to 30,000 togrogs;
- 141.1.7 if a business entity has not complied with applicable labour safety and sanitation regulations, a State labour inspector shall impose a fine on the business entity of from 150,000 to 200,000 togrogs; and if business units jointly own buildings or facilities that do not meet the requirements specified in Article 85, a State labour inspector or judge shall impose a fine on such business units of from 50,000 to 100,000 togrogs;
- 141.1.8 if an officer has failed to timely participate in discussions concerning collective agreements and contract of employments, or to begin the discussions in a timely manner, or has unreasonably refused to submit a dispute to an intermediary or labour arbitration, a judge shall impose a fine on such officer of from 10,000 to 50000 togrogs;
- 141.1.9 if an officer has hired a replacement for an employee who is participating in the settlement of a collective labour dispute, or has

illegally imposed disciplinary punishments on, or changed the job of, or dismissed representatives of employees who have participated in the settlement of a collective labour dispute, a judge shall impose a fine on such officer of from 10,000 to 50,000 togrogs;

141.1.10 if a third-party citizen or officer has illegally participated in the negotiation of collective agreements and bargaining, or the organizing of a strike or temporary denial of access to the workplace, or has interfered with the freedom of choice of participants in a collective labour dispute, a judge shall impose a fine on such citizen or officer of from 5,000 to 20,000 togrogs; and shall impose a fine on a business entity of from 50,000 to 100,000 togrogs;

141.1.11 if an officer or business entity have hired an employee without a written contract of employment, a State labour inspector shall impose a fine on such officer of from 5,000 to 20,000 togrogs; and shall impose a fine on a business entity of from 50,000 to 100,000 togrogs;

141.1.12 if, at the request of an employer, an officer has illegally terminated the contract of employment of an employee, whose job or position is being retained in cases other than the dissolution of the business entity or organization, the judge shall impose a fine on such officer of from 5,000 to 25,000 togrogs;

141.1.13 if an officer has delayed or not made the timely payment or not paid an employee's compensation, or has not paid compensation to an employee during idle time not caused by the fault of an employee or has made such payment in an amount lower than specified in law the judge shall impose a fine on such officer of from 5,000 to 15,000 togrogs;

141.1.14 if a citizen or an officer or a business entity or organization has violated Article 122.1 and organized a strike at an organization where a strike is prohibited, the judge shall impose a fine on that citizen or officer of from 40,000 to 50,000 togrogs; and shall impose a fine on the business entity or organization of from 100,000 to 200,000 togrogs.

141.2 If, as a consequence of the action specified in Article 141.1.6, an employee's health has been damaged, the loss or damage shall be compensated in accordance with the provisions of the Civil Law concerning damages.

141.3 If it has been determined that an employer delayed or not made the timely payment of an employee's wages, a judge shall imposed a penalty for late payment equal in amount to 0.3 percent per each delayed day, and the penalty payment shall be paid to the employee.

## **Article 142. Promulgation of the law**

142.2 This law shall come into force from 1 July 1999.

CHAIRMAN OF THE STATE GREAT HURAL OF  
MONGOLIA

R GONCHIGDORJ