

LAW OF MONGOLIA ON SENDING LABOUR FORCE ABROAD AND RECEIVING LABOUR FORCE AND SPECIALISTS FROM ABROAD

**12 April, 2001
Ulaanbaatar**

CHAPTER ONE General Provisions

Article 1. The objective of the law

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

Article 2. Legislation on sending labor force abroad and receiving labor force and specialists from abroad

2.1 Employment promotion legislation shall consist of the Constitution of Mongolia, the Labor Law, the Labor Law, the Law on legal status of a foreign citizen, the Social Insurance Act, this law and other legal acts issued in consistence with them.

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

Article 3. Prohibition of employment abroad

3.1. Employment abroad is prohibited in the following cases:

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

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

CHAPTER TWO

Coordination of activities of sending labor force abroad and receiving labor force and specialists from abroad

Article 4. Competency of a state central administrative organization in charge of

labor affairs

4.1. State central administrative organization in charge of labor affairs is entitled to the following competences:

4.1.1. Formulating and ensuring implementation of policies and directions on sending labor force abroad and receiving labor force and specialists from abroad in coherence with policies on employment and investment structure;

4.1.2. Granting special permission to deal with intermediary services of sending labor force abroad and receiving labor force and specialists from abroad to economic entities and citizens, granting, abstaining, prolonging and annulling employment permission to a foreign citizen in Mongolia;

4.1.3. Monitoring upon fulfillment of duties and obligations indicated in agreements regarding social protection of those, being employed abroad and from abroad in Mongolia on the basis of a contract of employment, taking measures to eradicate violations revealed in the course of their implementation.

4.1.4. Fixing and ensuring the approval by the Government of a percentage of labor force and specialists to receive from abroad in the total number of employees taking consideration of the total number of employees in sectors and organizations of economic activity.

4.1.5. Coordinating activities of a state central administrative organization, the government agencies and non-governmental organizations regarding sending labor force abroad and receiving labor force and specialists from abroad, concluding agreements with relevant foreign governmental and non-governmental organizations.

Article 5. General conditions in agreement on sending labor force abroad

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

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

5.2. Conditions of agreement on sending labor force abroad regarding labor relations and

social protection of a citizen to be employed abroad must be at no lower level than standards indicated in legislation of labor force receiving country.

5.3. Agreement on sending labor force abroad must clearly indicate the following conditions:

5.3.1. name of a country, city and organization to be employed on the basis of a contract of employment;

5.3.2. jobs and professions, titles and positions, number of labor force;

5.3.3. length of an agreement, its expiration and annulment terms;

5.3.4. minimum wage of employees;

5.3.5. occupational safety and health conditions, work and holiday regime;

5.3.6. accommodation, and social and welfare issues;

5.3.7. methods and types of settling disputes to arise from the implementation of agreement and labor dispute;

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

5.3.9. transportation cost and terms;

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

Article 6. Sending labor force abroad

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

6.2 Mediation permission is granted by Government member for labor affairs. Certificate of mediation permission is an official document with specific sign and number and signed by the Government member. The certificate indicates name of an organization and of labor force receiving country, number of decision of granting mediation permission and enforcement length of a permission.

6.3 Organization submits application requesting mediation permission of sending Mongolian citizen for employment abroad to a state central administrative organization and encloses the following documents to the application upon concluding agreement on sending labor force abroad with foreign organization:

6.3.1. agreement on sending labor force abroad concluded with foreign organization;

6.3.2. copy of registration certificate of economic entity confirmed by notary;

6.3.3. identification from tax office on whether certain organization is possible to ensure

requirements applied by relevant legislation of Mongolia and operate normally;

6.3.4. official letter from a certain organization indicated purpose and directions of undertaking mediation service, obligations, responsibilities of and requirements upon a citizen to work abroad;

6.3.5. selection procedure of a citizen to work abroad, draft agreement to be concluded between them and intermediary organization, and decision made on fixing up amount of mediation payment;

6.3.6. identification from relevant bank on financial capability of an organization;

6.3.7. If the case necessary, identification from embassy, diplomatic representative offices in certain country and other relevant organization.

6.4. Mediation permission is granted for up to three years' period on the basis of agreement on sending labor force abroad and may be extended upon organization's request, activity report and results. Decision on the extension of length of mediation permission is made by a Government member for labor affairs.

6.5. In the case of sending labor force to other country other than" indicated in the mediation permission, Government member for labor affairs makes decision on making amendments to mediation permission on the basis of agreement concluded with economic and organization of a certain country .

6.6. In the case of making agreement on sending labor force abroad in breach with legislation of Mongolia, and not meeting requirements indicated in 5.3 and 6.3 of this law, reply refusing granting and extension of mediation permission and making amendments to it within 15 days upon receiving application and relevant documents from certain organization must be notified in written form.

6.7. Organization is taken a decision by a state central administrative organization in charge of labor affairs each time of sending labor force abroad on the basis of a contract of employment.

6.8. State central administrative organization in charge of labor affairs submits name list of persons sent abroad for employment, and each copy of agreement and relevant documents to Embassy, consular and representative offices of Mongolia in certain country .

6.9. In the case organization granted special mediation permission for employment abroad seriously violated citizens' rights, getting citizens to lose occupational safety, social and health security, sending labor force to countries other than permitted, and fixing up unjustifiable amount for purpose of taking high profits from mediation activity, the decision on annulling mediation permission of an organization is made by a Government member for labor affairs.

6.10. In the case, a citizen of Mongolia lost life and got the disabled from being exposed to industrial accident, acute poisoning and occupational diseases, an organization granted mediation permission recovers the relevant losses and, if family members request, bear

expenses relating to bringing body of a died citizen to Mongolia. Organization, along with indicating in the agreement the provisions on coverage in social and health insurance of receiving country, ensures coverage in insurance in accordance with Law of Mongolia on Social Insurance and concludes an agreement with social insurance organization, if a citizen requests. Income amount paid by insurance contribution to insurance must be no lower than the minimum wage.

6.11. Payment imposed for granting mediation permission is regulated in accordance with the relevant law of Mongolia.

Article 7.- General conditions of agreement on receiving labor force and specialists from abroad

7.1 Economic entity, organization and citizen /hereinafter referred to as , 'organization"/ may conclude an agreement with foreign legal body on receiving labor force and specialists from abroad on jobs and professions requiring high - professional skills for the purpose of introducing progressive techniques and technologies in science, education and production, dealing with new production and services, assembling, maintaining equipment. and implementing projects.

7.2. The following general conditions are indicated in agreement on receiving labor force and specialists from abroad:

7. 2.1. name of organization and job to be performed by a foreign citizen;

7.2.2. profession and name of workplace of a foreign citizen, number of foreign citizens to be employed;

7.2.3. health requirements of a foreign citizen;

7.2.4. conditions of mutual recognition of documents certifying profession and education level;

7.2.5 the length of agreement, its expiration date and terms of annulment;

7.2.6. wage amount;

7.2.7. occupational safety and health, working conditions, work and holiday regime;

7.2.8. accommodation and welfare facilities,

7.2.9. social insurance-related issues

7.2.10. methods and types of settling disputes to arise from the implementation of agreement and labor dispute.

7.3. In the case domestic labor force can not be supplied for implementing nationwide sizeable programs and projects, building construction and required for eradicating hazards of national calamities and disasters, labor force may be received from abroad on the basis of decision of the Government.

7.4. In the case foreign citizen lost his/her life from being exposed to natural calamities, fire and flood, he or she is to be granted assistance and support by the Government of Mongolia likewise a citizen of Mongolia.

7.5. In the case of losing life and getting the disabled from being exposed to industrial accident, acute poisoning and occupational diseases, an organization employed a foreign citizen is to fully fulfill its relevant obligations.

Article 8. Receiving labor force and specialists from abroad

8.1 Organization must preliminary get a mediation permission from state central administrative organization in charge of labor affairs, and its competent organizations /hereinafter referred to as “competent” organization/ prior to receiving labor force and specialists from abroad.

8.2. Organization prepares the following documents in order to take a permission indicated in 8.1 of this law:

8.2.1. official letter indicating in detail the needs of receiving labor force and specialists from abroad, size and length of job and services to perform, industrial specifics, location, profession, work experience and skills of a foreign citizen;

8.2.2. copy of registration certificate of economic entity, organization and foreign investment economic entity confirmed by notary;

8.2.3. agreement concluded with foreign legal body regarding receiving labor force and specialists from abroad;

8.2.4. copy of foreign passport of a foreign citizen;

8.2.5. copy of professional certificate and diploma of a foreign;

8.2.6. reference letter from sectoral ministry and agency to employ;

8.2.7. proposal and comments given by Agency in charge of foreign citizens and citizenship issues regarding foreign citizen and his/her family members;

8.2.8. comments by local employment service regarding the needs and demands of receiving, labor force and specialists from abroad in certain organization.

8.3. Competent organization grants permission of employment in Mongolia within the percentage and number fixed by the Government on the basis of receiving and checking relevant documents.

8.4. Permission of employment is given for up to one year and its length is extended in accordance with 8.2 and 8.3 of this law on the basis of receiving and checking organization's request, results of performed job and service, and grounds for extended employment.

8.5. Organization having a foreign citizen arrived in Mongolia in accordance with permission of employment must register in the Agency in charge of foreign citizens and citizenship issues.

8.6. In the case a foreign citizen granted permission of employment ... a contract of employment concluded with organization, competent organization makes a decision of granting permission in accordance with adequate procedure on the basis of reference by an organization, a foreign citizen employed in, and grounds for a contract of employment.

8.7. In the case a foreign citizen granted permission of employment in Mongolia has not fulfilled his/her duties and obligations of a contract of employment concluded with certain organization, breached the provisions of a contract, and moved for employment in their organizations and locations without getting permission, the permission of employment is annulled by relevant competent organization on the basis of reference by organization and the notification is forwarded to

8.8. Length of permission of employment for foreign citizen is accounted starting from request in the form of an official letter indicated in 8.2.1 of this law.

8.9. Procedure of service and payment amount of granting permission of employment to foreign citizen are approved by government members for labor and financial affairs jointly.

Article 9. Workplace payment, its amount

9.1 Economic entity, organization and a citizen pays workplace payment in the amount indicated in 9.2 of this law for providing a foreign citizen with workplace and ensuring the employment and service with income.

9.2 Monthly workplace amount is equal to 2 times of the minimum wage approved by Government of Mongolia per foreign citizen.

9.3. Workplace payment is concentrated in employment promotion fund and utilized for measures to generate workplace and reduce unemployment.

9.4. The payment indicated in this article is not extended to foreign citizens being employed in foreign diplomatic representative and consular offices, resident representative offices of international organizations, specialists and workers being employed in education and science sector by contract, and if it is indicated in the agreement, foreign specialists and workers being employed by inter-government agreement.

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

CHAPTER THREE

Miscellaneous

Article 10. Responsibilities of the organization and diplomatic representative offices

in foreign countries

10.1 The organization prepares quarterly report and information of implementation of agreement on sending labor force abroad and receiving labor force and specialists from abroad, citizens being employed abroad labor force and specialists received from abroad in accordance with approved... Information on and extended agreements must be duly prepared and submitted officially to state central administrative organization and its competent organization

10.2 The organization has a duty to take measures of sending back Mongolian citizens being employed abroad and labor force and specialists received from abroad upon completion of a contract of agreement.

10.3 Embassy, consular and representative offices in certain countries have the following duties and obligations regarding Mongolian citizens being employed and industrial trainees abroad, and foreign citizens being employed in Mongolia:

10.3.1. monitoring of implementation of agreement regarding employment of citizens of Mongolia abroad;

10.3.2. keeping registration and records regarding citizens of Mongolia being employed on the basis of a contract of employment, and submit to state central administrative organization on quarterly basis.

10.3.3. undertaking on-spot Visit and study on the working conditions, wage issues and social welfare issues, as the case necessary, rendering support and assistance to Mongolian citizens by addressing to competent organizations of certain country.

10.3.4. monitoring and inspecting whether agreement of receiving labor force and specialists and permission for employment are granted prior issuing the entering visa to Mongolia, and providing for relevant recommendations.

10.4. In case of death and disability caused by industrial accident, poison and professional diseases the employer of a foreign citizen will be in charge of fulfilling the functions stated in the contract.

10.5. In case of death and disability caused by industrial accident, poison and professional diseases, the licensed intermediary organization that employed the Mongolian citizen on contractual basis, will be responsible for paying relevant losses and will be in charge of paying the transportation cost to bring their corpse, in case it is requested by the family.

Article 11. Monitor the implementation of the legislation

11.1 Control over observance of the employment promotion legislation shall be implemented

by state central administrative organization or its competent organization, the aimag, capital City, district Governor's offices.

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

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

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

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

12.1.3. in the case of violating the provision 10.1 of this law, and not submitting the reports and information, officials shall be fined by 5000-25000 tugrugs, economic entities or organizations by 50000-1 00000 tugrugs;

12.1.4. in the case of avoiding sending back the citizens indicated in the provision 10.2 of this law and providing the possibilities to be employed without permission, the officials shall be fined by 50000-1 0000 tugrugs and economic entities or organizations by 500000-1000000 tugrugs.

Article 13. Enforcement of the law

This law shall come into force on 1 June 2001.

The Vice Chairman of State Ikh Khural

J. Byambadorj