

TERMS OF REFERENCE

(22 Feb, 2022)

SUPPORT TO THE MINISTRY OF LABOUR AND SOCIAL PROTECTION OF MONGOLIA ON THE FINALISATION
OF THE REVISED LIST OF PROHIBITED JOBS AND A DRAFT LIST OF LIGHT WORKS FOR MINORS

1. Background

In Mongolia, 10% of children aged 5 to 17 or over 56,000 children perform child labour,¹ particularly in the agriculture sector, but also in the forms of horse racing, construction and mining. Hazardous work is especially common in construction and mining, with over half of 15 to 17 year olds in these sectors performing such work.² More children in rural areas than urban areas are engaged in child labour, as are more children from poorer households. Boys face a higher risk of child labour than girls, leading to gender inequality in education outcomes, but girls tend to bear a significantly higher burden in relation to household chores.³ Data collection and monitoring pose significant problems, as employers are not required to keep a register of workers under 18. Compared to urban areas, children in rural areas are more likely to work due to their low household income. It is common for child jockeys to get injured, to become disabled or even lose their lives.

Mongolia is a beneficiary of the EU GSP+ which requires the country to comply with 27 international conventions including the ILO eight fundamental conventions. The latter includes the ILO C.138 and C.182 concerning minimum age of employment, and worst forms of child labour, respectively.

To address the challenges of child labour in the country, Mongolia has taken several policy and practical measures in past years. To highlight a few:

- a. Mongolia ratified ILO conventions C.138 in 2002, and C.182 in 2001;
- b. The country adopted and implemented the National Action Programme to eliminate the Worst Forms of Child Labour, 2008-2012;

¹ Understanding Children's Work (UCW): *The twin challenges of child labour and educational marginalisation in the South-East and East Asia region: Preparing for a post 2015 world* (Rome, UCW, 2015), p. 6.

² Ibid., p. 36.

³ Ibid., pp. 7–8.

- c. Minister of Labour has issued Order No.A/36 in February 2016 and approved a list of jobs prohibited for minors, which includes prohibition of use of child jockeys in winter and spring horse races organized between November 1 and May 1.

Recently, by advancing the national legislations on labour relations, the Parliament of Mongolia endorsed the revised Labour Law in July 2021, which is effective from the 1st of January 2022. The law has introduced many new champion provisions that are more in line with the international labour standards. The new law reflects definition of child labour and the worst forms of child labour. Moreover, adding to the list of prohibited jobs (Article 142.9), a list of light work for minors is introduced (Article 142.3, 142.4) by allowing children from age 13-15 to carry out specific light work with permission from parents or caretakers. Both lists are required to be approved by the minister for labour and social protection. In connection with this, the Ministry of Labour and Social Protection (MLSP) is tasked to revise the approved list of jobs prohibited for minors in 2016 and develop a new list of light work for minors.

ILO has been supporting nationwide studies and research⁴ on child labour to contribute to further policy development and decision making. For example,

- a. ILO and National Human Rights Commission of Mongolia (NHRCM) conducted a qualitative Study on Child Labour in 2008;
- b. ILO and UNICEF supported a research on The Rights of Child Jockeys in Spring Horse Racing⁵ conducted by the NHRCM, Legal Research Center and Mongolian Bar Association;
- c. Child Labour Survey by NSO in 2005/2008, 2008/2009, 2011/2012 and 2021/2023, (ongoing) with financial and technical support of the ILO;

In 2021-2022, the child labour qualitative study was conducted by the NHRCM with financial and technical support provided by the ILO project Trade for Decent Work funded by the EU. The study has revealed the current situation of child labour in Mongolia and proposed two draft lists – 1) Revision of list of jobs prohibited for minors; and 2) A new draft list of light work for minors. To further incorporate the tripartite partners' feedbacks to the draft study and the draft lists, the NHRCM in coordination with the Trade4DW project has organised a tripartite consultation meeting on 14th of January 2021 by involving MLSP, Mongolian Employers' Federation and Confederation of Mongolian Trade Unions, development partners, civil society and other relevant government agencies. Presently, the draft study along with two lists have been reviewed by the ILO's technical experts and are under the finalisation by the NHRCM.

At the same time, the MLSP has been reviewing and revising the draft lists (produced by the NHRCM) and has requested technical support from the ILO to finalise these draft lists to meet the legal requirement by the new Labour Law.

When the draft lists are finalised with support from the ILO, the tripartite working group established at the MLSP will review them again and approve/commend for further adoption by the minister.

⁴ For more information and research reports, please visit, www.ilo.org/mongolia

⁵ https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-beijing/documents/publication/wcms_481519.pdf (had an access to the report on 18 February, 2022)

2. Objective

The objective of the consultancy is to provide support to the MLSP, in coordination with ILO, to finalise the draft lists – the revised list of jobs prohibited for minors and a draft list of light work for minors. For this purpose, an international consultant will be recruited.

3. Scope of the work, timelines and estimated number of working days

Under the overall technical guidance of the ILO Senior Specialist on Fundamental Principles and Rights at Work, the consultants will be tasked on the following:

- 1) to review the draft lists and desk review of background documents and available data including ILO's technical comments, in between 7 to 11 March, (2 days)
- 2) to conduct consultations with key stakeholders including research team/NHRCM, MLSP, MONEF, CMTU and Family, Child and Youth Development Agency, in between 14 to 17 March, (2 days)
- 3) to propose revisions to the draft lists, in between 17 to 22 March, (2 days)
- 4) to conduct consultation/workshop with stakeholders to present revised draft lists, in between 22 to 23 March, (1 day)
- 5) to revise and finalise the draft lists based on consultation and workshop, in between 23 to 28 March (3 days)

4. Deliverables:

The international consultant will provide the following products:

- a. Finalised draft list of jobs prohibited for minors
- b. Finalised draft list of light work for minors

5. Contract period and payment terms

One-time (100%) payment will be made at the completion of the contract.

6. Deadline

Application letter should be submitted together with information on the daily professional fee and detailed CV(s) highlighting prior relevant experience. This must be submitted not later than 2 March to Trade for Decent Work project via email at ulaanbaatar@ilo.org