

Mongolia Amends its Labour Law

31 May 2017

The Parliament of Mongolia adopted the Amendment Law ("**Amendment**") to the Law of Mongolia on Labour ("**Labour Law**") on 21 April 2015. The amended law has now been published in the State Gazette, bringing it into force.

With a stated purpose of aligning the Labour Law with international standards, including those of the United Nations, the Amendment seeks to provide detailed regulation on previously unclear provisions of the Labour Law, such as probationary periods, internship/apprenticeship periods, and part-time employment. The Amendment also increases the level of fines for violations of the Labour Law by employers, in order to ensure the protection of employees' basic rights.

1. Probation and Apprenticeship Periods

The Labour Code used to allow the conclusion of an employment agreement with a probationary period up to 6 months, although this was not defined. The Amendment introduces a definition of "probationary period", which must not exceed 3 months. The Amendment makes it clear that the purpose of the probationary period is to determine whether the employee is suitable for his or her position in terms of the skills and abilities required.

The Amendment also introduces a definition of "apprenticeship period", which provides that employers may hire an apprentice to be trained by an experienced employee during the term of the apprenticeship. The term of apprenticeship must not exceed 3 months.

2. Part Time Employment

The concept of part-time employment was not reflected in the Labour Law until the passing of the Amendment. Due to the lack of regulation, part-time employment was regulated by the use of paid service contracts governed by the Civil Code of Mongolia, which caused problems in practice. Now employers must conclude employment agreement with a part-time employee and their employment relations will be regulated under the Labour Law. The hourly rates of part-time employees must not be less than that of full-time employees.

One practical issue with the Amendment is that it is drafted to state that a part-time employee's salary is payable "immediately" after the work is completed which, in our view, is problematic. In most jurisdictions, part-time employees on long term contracts are generally paid in the same manner as those who are working on a full-time basis.

3. Increase of Fines

The Amendment increases the fine payable for not entering into a written labour contract from MNT 5,000 - 20,000 to MNT 500,000 – 1,000,000 (US\$ 250 - 500) for company officers and from MNT 50,000 - 100,000 to MNT 5,000,000 – 10,000,000 (US\$ 2,500 - 5,000) for the company itself.

Overall the Amendment increases the protection afforded to employees who are not on full-time employment contracts. If you would like further information on any aspect of this note please contact persons below.

Article by Anthony Woolley, Counsel, Bolormaa Gulguu, Associate, and Turtuvshin Bat-Erdene, Paralegal.

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