



THE EMPLOYER'S OBLIGATION ON LABOUR SAFETY AND HYGIENE IN MONGOLIA

1. Introduction

Mongolia is one of the wealthiest countries in the world of mineral resources and has developed its own independent mining industry since 1990. The country has joined the implementation of European and international technical, environmental and occupational safety and health standards in the mining sector to improve its competitiveness in the public and private sector.

Mongolia ratified the Occupational Safety and Health Convention (No.155) of International Labor organization (ILO) in 1999. In compliance with the Convention, the country is upgrading legislation and regulating occupational safety and hygiene issues within the legal reform process. For instance, out of about 120 occupational safety and hygiene standards that were reviewed, 35 have been revised or newly adopted since 2010.

The Law of Mongolia on Labor Safety and Hygiene is approved in May 22, 2008 and the purpose of this law is to determine the state policy and principles on labor safety and hygiene, and to regulate relationship with respect to management and monitoring system of state organizations, to ensure fulfillment of requirements and standards for labor safety and hygiene at workplace and to create safe and hygienic work environment for employed citizens.

2. Rights and obligations of the employed citizens and employees

Rights of the Employees:

1. To work at workplace which meet the labor safety and hygiene requirements;

2. To have medical insurance for disease caused by industrial accident and occupational nature;
3. To receive information on workplace conditions, risks that can impose danger to health, industrial dangerous and poisonous factors;
4. To suspend work in case of work safety regulations is violated or certain conditions which could cause danger to human life and health is emerged in the course of work performance, and inform such matters to employer.

Obligations of the Employees:

1. To abide labor safety and hygiene requirements, standard, regulations and technologies;
2. To attend training on labor safety and hygiene, to take examinations if provisions of law requires and to instructed safe operations;
3. To take prompt measures specified in safety regulations and procedures in case of certain conditions which could have negative impact on human life and health is emerged in the course of work performance;
4. To protect one's health, to go under medical check-up;
5. To use special garments and protective equipment in accordance with their designated purposes;
6. To acquire technique and methodology and professional skills in order to perform one's duties without risks and accidents etc.

3. Hygienic protection zones

In accordance with the MNS 5105:2001 Standard on Occupational safety, industrial hygiene, hygiene protection area norm, general requirements, the hygienic protection areas are classified into 5 /five/ groups such as 50, 100, 300, 500, 1000 meters from residential areas, school or hospitals.

This classification is different by technological features, the toxic and caustic substance that emits to the environment, the electromagnetic wave of radio frequency, and its impact on the environment.

4. Workplace risk

“Workplace risk” means work environment which may cause the Employee to industrial accident, acute poisoning and occupational disease. According to the statistic of workplace risk (exclude occupational disease) for the last 3 years:



The Employer shall transport citizens and employees who have been injured and poisoned in an industrial accident and acute poisoning to a hospital at the employer’s expense and shall bear expenses of necessary medical examination. The Employer shall take measures to eliminate

negative impacts of industrial accident and acute poisoning within 24 hours.

The Employer where the accident happened shall be responsible for the expenses incurred in connection with the investigation and reporting of the industrial accident and acute poisoning.

The degree and term of loss of ability to work by industrial accident, acute poisoning and occupational disease shall be determined by the Medical-Labor commission.

The below table show situations deemed and not deemed as an industrial accident:

Industrial accident	Non industrial accident
Injured in workplace, official appointment and performing his/her duties;	Injured while performing another work without the permission of the employer;
Injured while going on all types of vehicles or walking during work hours between workplace affiliated, subsidiary, and branch;	Injured from leaving the workplace and serious violation of labor safety rules;
Injured when before commencement of work, after the finish of work, adjusting of work tools, changing clothes, bathing, resting in the workplace and handover;	Injured in the workplace from alcohol or drugs;
Injured when come to work and return at home, and going by transportation or on foot etc.	Injured his/her body while committing a crime.

In terms of occupational disease, the State central administrative organization in charge of health shall approve a list of it. For instance pneumoconiosis, metal poisoning, hearing disease are an occupational disease etc.¹

In accordance with Appendix of resolution №77 on List of Occupations for underground, toxic, hot and hard labor conditions (which are categorized abnormal working condition) by Minister of Labor and Social Protection (2004) has approved:

Labor Conditions	Occupation
Underground or mining condition	Blaster, assembler, driller, electrician, operator of pump machine etc
Toxic condition	Electrician, operator, welder, engineer, reagent composer, etc.
Hot condition	Metal melter, melter operator, concentrate heater, etc.
Hard condition	Borehole driller, polisher, driver of haulage truck, crusher, etc.

5. Non-permanent Standing Committee

The Employer shall investigate and register every industrial accident and acute poisoning and establish a non-permanent standing committee which will have responsibilities to determine the cause of the accident and acute poisoning and issue an act and conclusion.

The Committee has at least 3 members appointed by the employee (his/her

¹ Appendix of regulation № 274/135 on List of Occupational diseases by Minister of Health, Labor and Social Protection (2008)

representative), employer and Authority organization (Governor's officer).

Obligation of the Committee:

1. To resolve them after receive complaints and requests;
2. To implement to develop plans that eliminate the reason for industrial accident and acute poisoning;
3. To organize warm and promotional among all employees, conduct training, and deliver the recommendation to the employer based reason of industrial accident and acute poisoning.

The Employer and committee shall submit a report and act of industrial accident and acute poisoning to the local State specialized Inspection Department.

This act issued from non-permanent standing Committee shall be reviewed by the state labor hygiene inspector respectively.²

If there are a serious, hazardous industrial accidents and acute poisoning, the Government shall appoint the Committee that moment.

If the Employee and Employer shall not acknowledge the act and decision of the state labor hygiene inspector, any dispute shall be settled under the court proceedings.

After 6 months from a date of industrial accident has occurred, the act on industrial accident of shall not be issued by the authorized committee or authority.

6. Medical check – up

The Employer shall arrange for Employees to receive preliminary and scheduled medical check-up necessary for and related to their work performance in production, performance and service in accordance with procedures

² Appendix of regulation № 107 on Rule for inspecting and registering of industry accident, occupational disease, and acute poisonings by Government (2008).

promulgated by the state central administrative organization on charge of health issues.

Expenses related to medical check-up shall be borne by the Employer.

In accordance with Article 10.15 of Offence law, if the Employer shall not fulfilled its obligation on preliminary and scheduled medical check-up for the employee, a defaulted individual shall be imposed of penalty with the amount of to 75,000MNT (app 28.1USD) and 750,000 (app 281.1USD) for a legal entity.

7. Training

The Employees shall attend short term training on labor safety and hygiene in compliance with procedures approved by the state central administrative organization in charge of labor issues and acquires knowledge and training.

Training shall be consisted from following types:

1. Training for newly employed citizens;
2. Training for citizens and employees who are being shifted to another workplace;
3. Training for citizens and employees who work at workplace which is under toxic and dangerous industrial or similar condition to her/him.

The Employer shall conduct training on labor safety and hygiene at least twice a year for all employees and shall take examinations from them.

Instruction shall follow types:

1. Preliminary instruction to newly employed citizens or practicing student;
2. First instruction in the workplace;
3. Repeatedly instruction with purpose to approve their knowledge;
4. Course training³.

³ Appendix of resolution №33 on Rule for organize labor safety and hygiene to legal entity and organization by Minister of Health and Social Protection (2000)

8. Assessment of workplace

Working conditions of the Employer's workplace shall be assessed at least once a year whenever the Employer creates a new workplace or changes orientation of production or service or conducting operations using raw material which contains toxic or dangerous chemical substances.

The Employer shall responsible for expense of assessment of workplace.

Assessment of workplace is made by professional organization in accordance with MNS 5080:2001 - Standard on Occupational safety, industry hygiene, working condition their classification and factors assessment of working condition and MNS 4990:2015 - Standard on occupational safety, industry hygiene and hygienic requirement⁴.

9. Additional pay for industrial accidents and occupational diseases

The Employer is obliged to pay 2.8% of the Employer's wage and similar income fund as the contribution of industrial accidents and occupational diseases which is depending on the occupational health and safety requirements. The Government shall approve a list of Employers to pay such premium of industrial accidents and occupational diseases and the rate of contribution as per proposal of the National Social Insurance Council.

The Employee who is injured or lost its working ability due to industrial accident, acute poisoning, and occupational disease is entitled to get allowance or pay as an insured from Social insurance fund:

1. Disability pension;
2. Dependent's pension;

⁴ Appendix of regulation № A/123 on Rule for evaluation of working condition by Minister of Labor and social protection (2015)

3. Temporary disability benefit;
4. Rehabilitation costs;
5. Funeral benefit.⁵

Workplace conditions for disabled persons shall be fit their ability to work.

10. Employer's obligation related to a disabled or dwarf person

One disabled or dwarf persons shall be employed if the Employer has more than 25 employees.

If Employer does not employ disabled or dwarf persons, they shall pay a monthly payment for each vacancy they should have employed. The monthly payment equals with average monthly salary of the employees in Ulaanbaatar, Orkhon and Darkhan.

If the Employer has not hired disabled or dwarf persons according to the law in other places, the monthly payment shall be 60% of average monthly salary of the employees.

The Employee is paid the payment for non-hiring disabled or dwarf persons for 24 months, the payment will be fully exempted for next 12 months.

For more information or any queries, please feel free to contact V.Bolormaa, Partner of Grata International Law Firm by bvolodya@gratanet.com or 976 99085031.

⁵ Law of Mongolia on Pension and benefits provided by the fund of social insurance (1994)