



**GRATA**  
INTERNATIONAL

**“PROCEDURE FOR DETERMINING THE AVERAGE  
SALARY” AND  
“PROCEDURE FOR GRANTING ANNUAL LEAVE AND  
CALCULATING ANNUAL LEAVE PAY”**

GRATA International Mongolia

Based on the Article 24.2 of the Law on Government of Mongolia and article 103.1.1 of the Labor Law (revised version), the “Procedure for determining the average salary” was approved and entered into legal force on January 1, 2022.

In accordance with the issuance of this decree, Decree No.55 of the Minister of Social Protection and Labor “On Approval of Regulations” was repealed on January 1, 2022.

### **Procedure for determining the average salary**

This procedure shall be applied to determine the average salary of an employee in accordance with the Labor Law.

In accordance with the Law on Pensions and Benefits from the Social Insurance Fund, this procedure shall not apply to determine the composition and average of labor fees and similar income for payment of insurance premiums of insured person, and the establishment of pension and benefits;

The composition of an employee’s salary shall consist of the base pay, additional pay, extra pay, annual leave pay and bonuses specified in Article 101.1 of the Labor law.

All types of employee allowances such as reduced working hours, idle time, benefits (such as adopting infants for parents), reimbursement, discounts (discounts on transportation, meals, etc.) are not included in the employee’s salary component.

The average working day of a month can be calculated as **21 days of average working days and the average monthly working hours can be 168 hours.**

### **Determining the average salary**

The average salary of an employee is determined as follows:

In determining the **average monthly salary**, the employee’s total salary for the reference period shall be divided by the total number of hours worked during the reference period.

In determining the average salary to be paid to an employee in accordance with the Labor Law, the following additional pays and allowances shall be calculated based on the employee’s salary for the **last 3 months:**

- Additional pay to an employee who worked overtime, night hours, weekends, and public holidays;
- Allowance to an employee who did not participate in the strike but has not been able to perform his/her job due to the strike;
- Allowance for a period till employment agreement termination in accordance with the Article 80.5 of the Labor Law;
- Allowance for a reduction in an employee’s salary as due to performance of other work during idle time;
- Allowance for the duration of the donor’s role;

- Allowance for the employee whose employment relations were terminated without grounds is reinstated to his/her job by a competent body's decision;
- Allowance for paternity paid leave;
- Benefit for a parent who has adopted a newborn baby, until the baby reaches 60 days of age.

In determining the average salary to be paid to an employee in accordance with the Labor Law, the following benefits and allowances shall be calculated based on the employee's salary for the ***last 6 months***:

- Deducting from employee's salary for the damage, and determining the liability of property in accordance with the Labor Law;
- Where an employee is exposed to or died of the industrial accident, acute poisoning or occupational disease, the reimbursement is paid in an amount equal to the employee's average monthly salary to such employee, or his/her family, without taking into account whether the employee is covered by insurance of industrial accident or occupational diseases.

#### **Procedure for granting annual leave and calculating annual leave pay**

Based on the Article 24.2 of the Law on Government of Mongolia and article 99 of the Labor Law (revised version), the "Procedure for granting annual vacation and calculating annual vacation pay" was approved and entered into legal force on January 1, 2022.

In accordance with the issuance of this decree, Decree No.166 of the Minister of Health and Social Protection "On Approval of Instructions and Regulations" was repealed on January 1, 2022.

This procedure shall be applied to grant annual vacation and calculate annual vacation pay of an employee in accordance with the Articles 99 and 110 of the Labor Law.

The employer shall approve the annual vacation schedule in the first quarter of each year, based on the employee's request without disturbing the normal operation of work, services and production.

In approving the shift schedule, the employer shall consider the request of employees with disabilities, medical certificates and under 18 years of age, and combine maternity leave and personal leave with regular leave.

If an employee who has retained his/her job from maternity leave or childcare leave and has returned to work, the employer may adjust the period of his/her annual leave in accordance with the internal rules of the collective agreement, labor agreement and labor legislation, without violating the provisions specified in the Labor Law and other relevant legislative acts.

The employer may determine additional days off, considering the employee's health status, family responsibilities in accordance with the law, collective agreement, internal labor rules.

### **Calculation of annual leave**

An employee's annual leave shall be calculated in annually. Annual leave is calculated from the date of the employee's first employment relation.

If an employee takes his/her annual leave in parts, the length of any continuous part of an annual leave shall be at least 10 business days.

Basic annual leave and additional leave shall be awarded to a part-time employee, and the total number of hours of the year shall be transferred to a regular working day.

If a minor employee has reached the age of 18 during the year of his/her annual leave, his/her annual leave for the period of employment before the age of 18 and the annual leave for reaching the age of 18 shall be determined separately and calculated in aggregation. The month of reaching the age 18 is included in the period of annual leave before the age of 18.

Annual leave shall be calculated for the following period:

- Maternity leave;
- The adoptive parents of a newborn child, specified in the Article 138.1 of Labour Law;
- Personal leaves as per proper procedures;
- Temporary loss of ability to work.

Annual leave shall be not granted for the following period:

- Childcare leave;
- Active military service;
- The employee is having training for more than 6 months;
- Protection as a witness or victim;
- Suspended from work by the competent authorities;

Upon termination of an employee's employment relations, the employer shall calculate the annual leave with the employee as follows:

- Must pay the amount of annual leave pay for the length of employment
- Deduct of annual leave pay paid in excess of the employee.

An employee's annual leave pay shall be calculated and paid for the respective year, if there are no conditions of termination of an employment relation.

### **Calculation of annual leave pay**

An employee's annual leave pay shall be paid before the employee's annual leave.

An employee who is on a part-time leave may be paid the full amount of his/her annual leave or the amount of the part-time leave for each period of his/her annual leave.

An employee who has annual leave in parts shall be paid the full amount of his/her annual leave pay or annual leave pay may be granted for each period of time taken in part.

The average salary for annual leave pay includes *base salary, additional pay, extra pay, bonuses*.

For the calculation of the annual leave pay, the total gross salary for the months after the previous annual leave is divided by the sum of the days worked during the same month, and the average salary for one working day is calculated by multiplying by the day of annual leave.

If an employee is taking annual leave for the first time, the annual leave pay shall be calculated by dividing the total number of months worked since the first day of employment by the sum of days worked in those months and multiplying the average daily salary by the number of annual leave days.

If an employee who is on pregnancy or maternity leave and continues to take annual leave after the end of pregnancy or maternity leave, the total number of months worked after the previous annual leave and before taking maternity leave shall be divided by the sum of the total number of days worked and multiplied by the number of annual leave days.

**Source:**

<https://legalinfo.mn/mn/detail?lawId=16389706524321> – “Procedure for determining the average salary”

<https://legalinfo.mn/mn/detail/16389706300881> - “Procedure for granting annual leave and calculating annual leave pay”

**For more information or any queries, please feel free to contact Bolormaa.V, Partner by [bvolodya@gratanet.com](mailto:bvolodya@gratanet.com) or +976 70155031.**

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