



GRATA
INTERNATIONAL

INTRODUCTION OF THE REVISED LABOR CODE OF MONGOLIA

Prepared (by) GRATA International Mongolia LLP

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Local Knowledge for Global business

CHAMBERS
AND PARTNERS

asialaw
PROFILES

WHO'S WHO LEGAL
WXL

IFLR
1000

The
LEGAL
500

THE LAWYER

CHINA BUSINESS 商
LAW JOURNAL 法

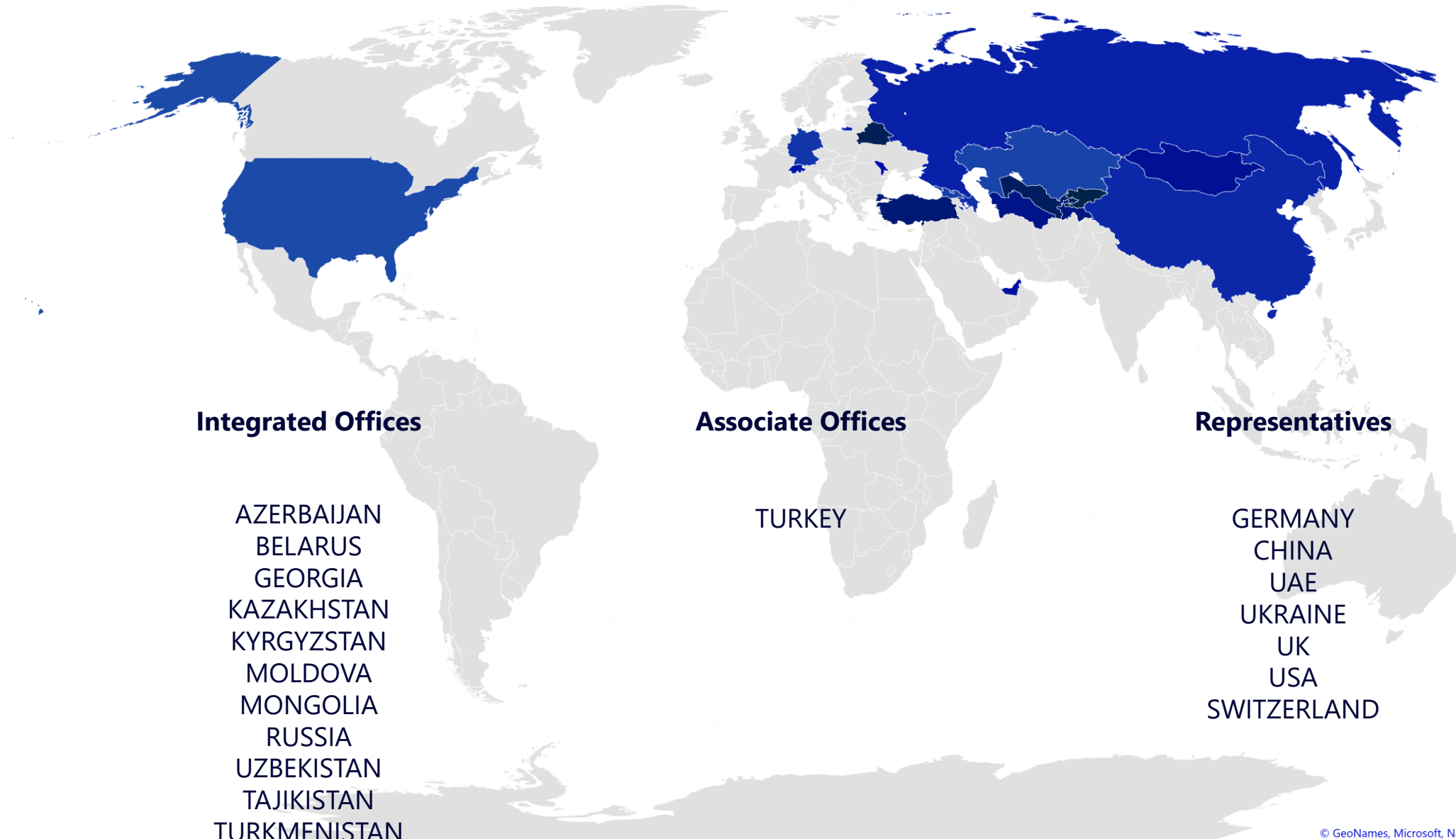
> 250

professionals advise major
international and local firms

> 29 years

of experience

INTERNATIONAL PRESENCE





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1. PRECONDITIONS TO ADOPT THE REVISED LABOR LAW
2. FRAMEWORK OF THE LAW
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PRECONDITIONS TO ADOPT THE REVISED LABOR LAW

July 2, 2021



**THE LAW WAS
ADOPTED**

**January 1,
2022**



**THE LAW SHALL
BECOME
ENFORCEABLE**

- ❑ Fundamental principles & rights, definitions, and terminologies to be brought in line with international labor conventions
- ❑ Significant changes in labor market and labor relations and lack of regulation on meet a need of new labor market
- ❑ Lack of specific regulation on state supervision over employment relations in the current law
- ❑ Necessity of regulations to settle labor disputes in the first instance
- ❑ Entering into employment relations without any written agreements, thus, unavailable to enjoy one's rights under the current law

FRAMEWORK OF THE LAW


- ❑ **THE LAW SHALL APPLY TO THE FOLLOWING RELATIONS:**

- ❑ Labor relations in connection with works and services provided in the territory of Mongolia; or
- ❑ Labor relations agreed to be governed by this law.

- ❑ Every person – i.e. self-employed persons, herders, members of partnerships and cooperatives, interns and apprentices, who are working, seeking jobs, and acquiring qualifications in official and non-official economic sectors shall be subject to the fundamental principles and rights, as well as obligations under the Labor Code /revised/.

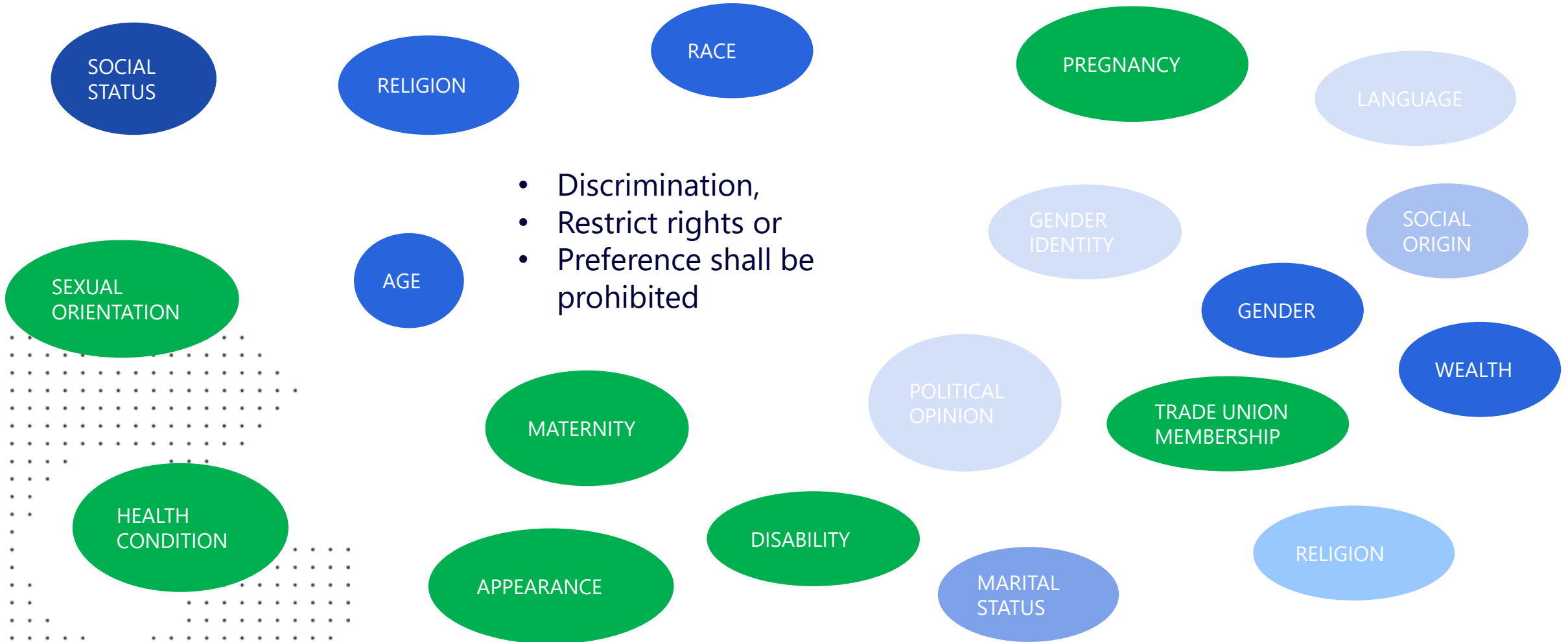


NEW REGULATIONS ON FUNDAMENTAL PRINCIPLES

1. NON-DISCRIMINATION;
 2. PROHIBITION OF HARASSMENT, VIOLENCE AND SEXUAL HARASSMENT;
 3. PROHIBITION OF FORCED LABOR;
 4. RESTRICTION ON USING COLLATERAL;
 5. PROHIBITION OF UNFAIR ACTIONS;
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FUNDAMENTAL PRINCIPLES & RIGHTS

NON-DISCRIMINATION



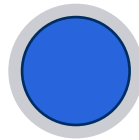
FUNDAMENTAL PRINCIPLES & RIGHTS

NON-DISCRIMINATION



DIRECT

any decisions or actions based on these grounds that establish distinction or preference.



INDIRECT

any decisions or actions of which application is for everyone equally, however in the course of implementation of such decisions or actions, discriminate individuals or groups of people on the basis of these grounds, restrict their rights, or provide preference, and which may lead to deprivation of equity, and opportunity.

1. Any distinctions, restriction of rights, or preferences established based on characteristics of the work duty;
2. Any special protection measures and support for certain groups of employees.

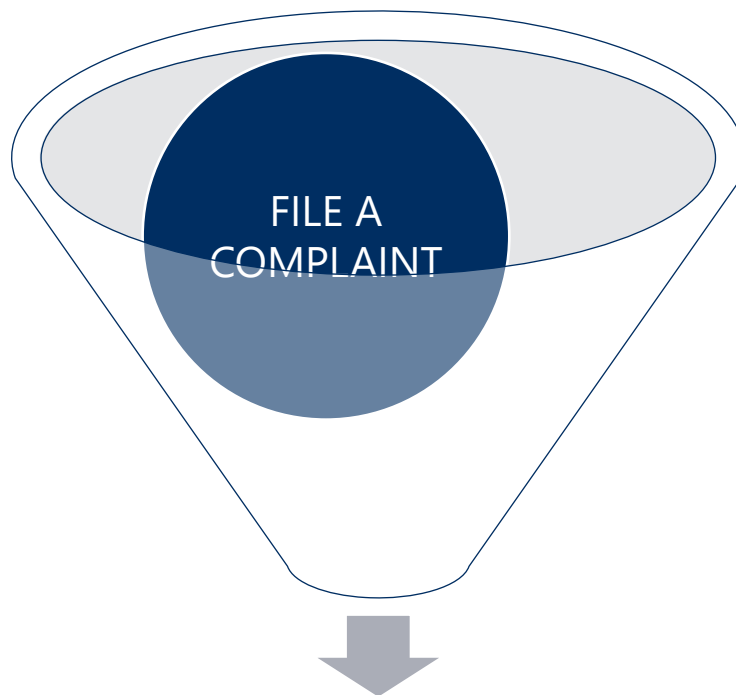
**EXCLUDED CASES FROM
DISCRIMINATION, RESTRICTION OF
RIGHTS, OR PREFERENCE**

FUNDAMENTAL PRINCIPLES & RIGHTS

NON-DISCRIMINATION

WHO CAN FILE A COMPLAINT?

- Individuals;
- Employees;
- Employees' representative.



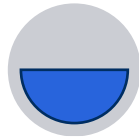
Enforcement mechanism

TO WHOM TO FILE A COMPLAINT?

- Managing & Senior officials of the entity;
- Relevant NGOs;
- Trade Unions;
- Labor Dispute Resolution Body;
- Law Enforcement Agency;
- Labor Inspection Body;
- National Human Rights Commission of Mongolia;
- Court of Mongolia.

FUNDAMENTAL PRINCIPLES & RIGHTS

***PROHIBITION OF
HARASSMENT, VIOLENCE,
AND SEXUAL
HARASSMENT***



HARASSMENT & VIOLENCE

SUBJECTS

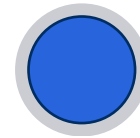
- Employees; and
- Third party.

FORMS

- Verbal;
- Physical;
- Electronic; and
- Others.

TYPES

- To commit or threaten to commit violence against the health of others by beating or hitting;
- Verbal bully, defamation, humiliation;
- Creation of intolerable workplace by discriminating on the basis of age, gender, race, etc. which are mentioned earlier, committing physical or psychological abuse, sexual harassment, violence and threatening.



SEXUAL HARASSMENT

SUBJECTS

- Employers;
- Employees; and
- Third party.

TYPES:

- Expression of sexual desire verbally, physically, electronically, or in other forms against one's will;
- Threatening, insisting, or offering a reward or worsen economically (change position or reduce salary) or in other ways in exchange for sexual intercourse.

FUNDAMENTAL PRINCIPLES & RIGHTS

*PROHIBITION OF
HARASSMENT, VIOLENCE,
AND SEXUAL
HARASSMENT*

WHAT MUST EMPLOYERS DO IN ORDER TO PREVENT?

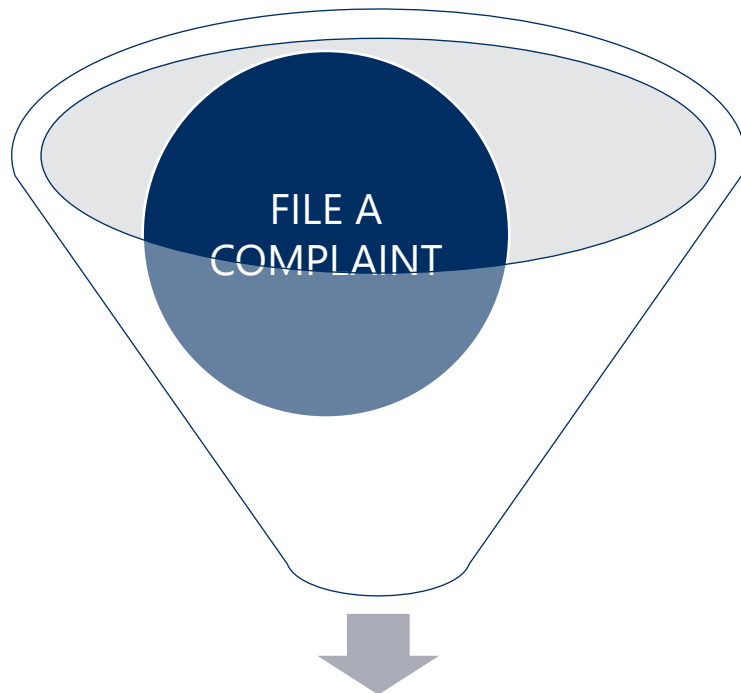
1. Add a procedure for prevention and elimination of harassment and violence in employment relations, as well as dispute settlement procedure in the internal labor policy/procedure, and to create a working condition that does not tolerate harassment, violence and sexual harassment;
2. Place information on the name of complaint recipient dept and officer, address, phone number, and e-mail in an area visible to all employees.

FUNDAMENTAL PRINCIPLES & RIGHTS

PROHIBITION OF HARASSMENT, VIOLENCE, AND SEXUAL HARASSMENT

WHO CAN FILE A COMPLAINT?

- Employees;
- Employers;
- Third parties.



Enforcement mechanism

TO WHOM TO FILE A COMPLAINT?

- Managing & Senior officials of the entity;
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- Labor Dispute Resolution Body;
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- Labor Inspection Body;
- National Human Rights Commission of Mongolia;
- Court of Mongolia.

FUNDAMENTAL PRINCIPLES & RIGHTS

PROHIBITION OF FORCED LABOR

FORCED LABOR means "compelling a person to perform works or services which are against his/her will by threatening to impose any fines and punishments, using force, or threatening to use force"

- a) Compelling to forced labor;
- b) Mediation of forced labor;
- c) Organization of forced labor.

Sanction
under the
Criminal
Code

CASES EXCLUDED FROM FORCED LABOR

- Basic education;
- Any works or services for military purpose performed by soldiers in military service;
- Simple landscaping and cleaning duties by residents of the area, city, village, or settlement;
- Community service under a valid court decision, or any works or services performed during sentence period under supervision and control of a state organization or civil servant;
- Any works or services related to the protection of national defense, human life and health, prevention from natural disasters, catastrophes, and elimination their consequences without delay.

FUNDAMENTAL PRINCIPLES & RIGHTS IN THE REVISED LAW

*RESTRICTION ON
USING COLLATERAL*

THE SEIZURE & PLEDGE OF DOCUMENTS OR
PROPERTIES OF EMPLOYERS AND APPLICANTS



- Money;
- Property; and
- Original copy of personal documents such as ID card and passport; educational documents, occupational certificates, and professional licenses; certificates of movable and immovable property

FUNDAMENTAL PRINCIPLES & RIGHTS

Prohibition of unfair action

Prohibited action for employer

- Interrupt association and express rights of the employee, interfere activities of the body to protect employees rights and give financial and other supports;
- Form a trade union under control of the employer;
- Discriminate by trade union membership status;
- Involve with negotiation of collective bargaining;
- Refuse to provide information for execution of collective treaty and bargaining;
- Control employee's representatives by giving or promising financial support.

Prohibited action for employee

- Demand from the employer or convince requirements to the employer which lead to discrimination;
- Have financial support from the employer with preconditions of doing collective bargaining and resolve labor dispute;
- Interrupt with conditions of having financial support from the employer through action or non-action of employee for associating to the trade union, selecting the representative and collaborative activities.

EMPLOYMENT RELATIONS

COMMENCEMENT OF EMPLOYMENT

- ❑ Employment relation is considered to have been established when an employee begins to perform his / her work duties, regardless of whether the employment agreement is concluded in writing or not.

FORM OF AN EMPLOYMENT AGREEMENT

- ❑ To be made in writing;
- ❑ Otherwise, to be concluded within 10 business days from the beginning of the performance work duties by the employee.

NEW MAIN CONDITION TO BE AGREED IN EA

- ❑ Location where the employee should perform work duties.

TERM FOR EA

- ❑ For indefinite period, except for the following cases:
 - ❑ Apprenticeship;
 - ❑ Work with probationary period;
 - ❑ Seasonal work (concluding an indefinite employment contract with a permanent employee);
 - ❑ Hiring instead of retaining employees;
 - ❑ Temporary employment;
 - ❑ Assign time-limited tasks related to funding and scope of work.

EMPLOYMENT AGREEMENT

TYPES OF EMPLOYMENT AGREEMENT

Apprenticeship EA

- In order to have work experience & skills
- Accompany by experienced employee
- The term=3 months↓
- In case of specialization=2 years
- Base salary=not less than 70% of the basis salary of a full-time employee performing the same type of work

Internship EA

- Tripartite EA – employer, intern, training institution
- The period=3 years↓
- Salary=not less than minimum wage

Probationary EA

- On probationary basis in order to evaluate if the employee qualifies for the job requirements
- Period=3 months↓
- Exclusions:
 - One-time seasonal work
 - Employment in place of retained employees
 - Employment in a temporary job

EA with special conditions

- In order to exercise ownership rights of the owner or his/her authorized person through the employee
- In order to execute a job at the executive level of a business entity
- Shall agree performance appraisal procedure, incentive, allowance and discount to the employee and profit allocation to the employee

EMPLOYMENT AGREEMENT

TYPES OF EMPLOYMENT AGREEMENT

Part time EA

- Fewer work hours

EA for work from home

- From home or from a chosen location
- By using employee's own or the employer's equipment & raw materials
- Agree duties, delivery term and form, compensation or service fee, reimbursement of costs for using own equipment or raw material.

EA for remote work

- Remotely online
- Fully/partly

EA between citizens

- Especially for assistant herders and domestic service workers
- Employer's obligation:
 - Provide at least 24 hours of uninterrupted rest per a week
 - Provide annual leave

EMPLOYMENT AGREEMENT

ADDITIONAL TERMS FOR EMPLOYMENT AGREEMENT

Non-compete obligation

- For EA with special conditions to protect industrial and business confidentiality;
- Under the EA, or an complementary agreement;
- Not to work for a company that directly competes with the employer; or
- Not to conduct activities directly competitive with the employer's activities;
- For up to 1 year after termination of the employment relation;
- Monthly compensation in the amount equal to at least 50% of the last month's salary of the employee;
- Non-applicable to minors, probationary employees or apprentices.

Obligation of employees to study on employer's expense

- Under EA , or an ancillary agreement to train, qualify, or specialize employees;
- Such an employee shall work for the company for up to 3 years after the training;
- In case of unilateral termination of the EA by the employee, he/she shall pay the tuition in the amount proportionate to the non-worked hours unless the employer relieved it partially or fully.

Confidentiality obligation

- For EA with special conditions, or other agreements if the employer considers necessary;
- Under the EA, or complementary agreement.

Full property liability

- Under EA or, complementary agreement;
- Amount and limitation of which the employee can dispose employer's properties, properties to protect and maintain, and location of the properties shall be specified.

EMPLOYMENT RELATIONS

PROTECTION OF EMPLOYEES' DATA

DATA PROTECTION – EMPLOYER'S OBLIGATION

- Introduce the necessities & purposes to collect the employee's data from a third party;
 - Store and protect employees' data on its own expense;
 - Provide the employee's data to competent state authorities;
 - Approve a procedure for collection, processing, storage, and usage of employees' data;
 - Place the procedure, or its amendments in an area visible to employees;
 - Provide the employee his/her complete data for free;
 - Correct wrong or incomplete data of employees upon their request.
- *Collection, processing, or storage of data related to personal secrets, or membership in political parties, public organizations, or trade union shall be prohibited, unless otherwise provided by law.*

LABOR SUPPLY AGREEMENT

**TRIPARTITE
EMPLOYMENT
RELATION**

GROUNDS TO HIRE EMPLOYEES UNDER A LABOR SUPPLY AGREEMENT:

- To hire for temporary work for a period of not exceeding six months */the number of employees to hire under the labor supply agreement ≤ 30% of the total number of employees of the recipient employer/;*
 - To hire in place of retained employees except the employees making collective agreement, and participating in collective bargaining, trade union activities, and lawful strike */.../;*
 - To hire for supporting primary activities of the business entity and organization */.../;*
 - To prevent and eliminate effects of disasters, catastrophes, and accidents immediately;
 - To hire for works for the purpose of preventing unforeseen obstacles which are possible to affect the normal operation of the business entity, organization, or its branches and units unless any urgent actions are taken, or to eliminate such obstacles.
-
- *Working conditions of employees employed under a labor supply agreement shall be to the same degree as working conditions of employees of the recipient employer.*

EMPLOYMENT RELATIONS

TRANSFER TO ANOTHER JOB

GROUNDS FOR TEMPORARY TRANSFER TO ANOTHER JOB

- Transfer to a job that does not adversely affect the employee's health until the employee's workability is restored on the basis of a decision of a medical and labor inspection commission;
- Transfer of a pregnant or breastfeeding woman to another job for a period specified in a medical certificate;
- Transfer of an employee who is under the protection of witness and victim to another job for a period specified in the decision of the competent authority;
- Transfer to another job in the same degree as agreed with the employee

Performing elected duties of government organizations for a period of 3 months which was one of the grounds to transfer to another job was removed.

EMPLOYMENT RELATIONS

JOB ROTATION

ROTATION OF EMPLOYEES WITHIN THE BUSINESS ENTITY OR ORGANIZATION, OR BETWEEN AFFILIATED UNITS OR BRANCHES FOR THE FOLLOWING PURPOSES:

- To balance workload;
- To prepare or retrain for specific jobs;
- To provide for skills to perform multiple positions;
- To prevent unforeseen external effect that may result from working in the same workplace for a long period.

Unless otherwise agreed with the employee, it shall be prohibited to rotate the employee by lowering his/her position or reducing the salary and wage, as well as to impose labor disciplinary sanctions on the grounds of refusal to rotate.

PERIOD=up
to 3 years



Upon mutual
agreement with
the employee

EMPLOYMENT RELATIONS

JOB RETENTION

GROUNDS TO RETAIN THE JOB:

- The employee is under the protection of witness & victim – for up to one year;
- The employee is enlisted in military service;
- The employee is transferred to another job temporarily;
- The employee is suspended from performance of duties by a competent authority;
- The employee refused to perform his/her duties in accordance with the grounds specified in this law – for a period until the condition of refusal to perform are eliminated;
- The employee is attending a training for a period agreed by the employer;
- The employee is having personal leave – for a period of the leave;
- Other ground agreed with the Employer

EMPLOYMENT RELATIONS

REINSTATE TO FORMER POSITION

GROUNDS TO REINSTATE TO A FORMER POSITION:

- There is a valid decision on reinstatement by a labor dispute commission, tripartite labor dispute commission of soum and district, or a court;
- A job position that was eliminated is recreated within three months since the termination of employment relations upon such a ground and the employee has applied within 30 days from such recreation.

EMPLOYMENT RELATIONS

TERMINATION OF EMPLOYMENT

GROUNDS TO TERMINATE THE EMPLOYMENT RELATION AT THE EMPLOYER'S INITIATIVE:

- ❑ The employee is determined to be incompetent for his/her job in terms of profession, qualification level, skills, and job performance – *in this case, the employee must be notified in advance and given ample time to improve his/her profession, qualification level, skills, and job performance.*
- ❑ The employee is determined to be incapable for his/her job in terms of health upon a decision of a medical and labor inspections commission provided, as well as there is no other job to transfer and the employee with a disability is still unable to work regardless of the provision of necessary equipment;
- ❑ The employee is found to have forged the documents proving his/her education, profession, and qualification level when he/she was hired.

EMPLOYMENT RELATIONS

REDUNDANCY

GROUNDS FOR REDUNDANCY

- A business entity, organization, or its branch and unit is liquidated /in this case, the employee's salary shall be paid in the first instance/;
- Reduction in position;
- Position elimination.

PERCENTAGE OF DISMISSED EMPLOYEES CONSIDERED AS REDUNDANCY /WITHIN 90 DAYS/

- 10-50:5↑
- 51-499:10%↑
- 500↑:50↑

REDUNDANCY NOTICE



- To each employee
 - At least 30 days prior to the dismissal
 - In written form
-
- *Dismissed employees shall be employed in the first instance to new or added jobs that are appeared within one year after the mass dismissal upon their request provided that employees meet the requirements.*

EMPLOYMENT RELATIONS

Unemployment allowance

Legal ground to receive unemployment allowance

- Ownership title has been transferred to others completely;
- if a business entity or organization or its branch or unit has been dissolved, or the position within it has been abolished or the number of employees has been reduced;
- if it has been determined that the employee cannot meet the requirements of the job or position on account of professional qualification, skill or health reasons (no position to transfer);

Allowance amounts

- 6 months up to 2 yrs – 1 or more month's base salary;
- 2 yrs up to 5 yrs – 2 or more months's base salary;
- 5 yrs up to 10 yrs -3 or more months' base salary;
- More than 10 yrs – 4 or more months base salary.

In case of massive redundancy, the allowance amount shall be agreed with employee's representatives but not less than above amounts.

Retiring employee is entitled to receive same allowance.

COLLECTIVE BARGAINING

FUNDAMENTAL PRINCIPLES IN COLLECTIVE BARGAINING

- ❑ To be willful to reach an agreement through constructive dialogue and mutual understanding;
- ❑ To provide or exchange necessary information and not disclose secrets of organization or individual;
 - ❑ Exchange of necessary information is mandatory obligation for both parties.
 - ❑ Upon the parties' request, government organizations are obliged to provide information on socio-economic situation of the country, current and future tendency in the sector, and other information or documents may be useful for the collective bargaining to extent of the law.
- ❑ **To take into account gender ratio in composition of representative board;**
- ❑ To be free of political influence.
 - ❑ Any interference, influence, and any forms of hindrance by government organizations, civil servants, religious institutes, political parties, NGOs, and business entities, organizations and individuals shall be prohibited. Defaulted person shall be liable under the Law on Infringement.

COLLECTIVE BARGAINING

*COLLECTIVE AGREEMENT
& COLLECTIVE
BARGAINING AGREEMENT*

GENERAL TERM of A CA
or CBA=3 YEARS↓

- In case of a CA or CBA on salary & wage, TERM=AT LEAST ONE YEAR

REGISTRATION OF THE
CA OR CBA

- To be registered within 10 business days

- ❑ *Collective bargaining on collective agreement shall be commenced within 10 business days from the receipt of notice.*
- ❑ *Collective bargaining on the collective bargaining agreement shall be commenced within 15 business days from the receipt of notice.*

COLLECTIVE BARGAINING

*COLLECTIVE AGREEMENT
& COLLECTIVE
BARGAINING AGREEMENT*

Disciplinary actions prohibited to be taken against trade union workers, elected persons, and employees' representatives in connection with participation in collective bargaining:

1. Labor disciplinary sanctions;
2. Job transfer;
3. Reduction of salary;
4. Termination of employment relations at the employer's initiative during the bargaining and within one year after the end of bargaining upon the following grounds:
 - Business entity, organization, or its branch has been liquidated;
 - Position eliminations and reductions;
 - Employee is determined to be incompetent in terms of profession, qualification, skills, and job performance; and
 - Employee is determined to be unable to perform its work duties due to health condition as per a decision of a medical and labor inspection commission as well as there is no other job to be transferred.

STRIKE

Principles in initiation or organization of strike

- To decide whether to organize a strike taking into account the significance of disputed matters, as well as decide the duration and scope of the strike;
- To choose and initiate a strike as the last action after making every effort to negotiate;
- To resume normal activities immediately after the end of the strike.

STRIKE

New grounds to initiate and organize a strike:

1. Employer has failed to initiate collective bargaining within the period specified in the law;
2. The collective bargaining has become stagnant due to the employer;
3. The employer or the employer's representative refused to participate in the labor mediation process or failed to resolve the labor dispute at the mediation stage;
4. The employer or the employer's representative refused to participate in the labor arbitration process.

New grounds to end a strike:

1. Collective agreement or a collective bargaining agreement has been made;
2. Upon the initiative of the trade union that organized the strike.

STRIKE

Prohibited actions by employers during strike:

- To temporarily hire external employees in the workplace of strikers.
- To hinder the right-to-work of employees who are not on strike.

After commencement of a strike, an employer may lockout the workplace entirely or partially if it considers that employees' demand is not acceptable.

Strike and lockouts shall be unlawful in the following cases:

- Procedure under the Labor Code is violated;
- Strikes or lockouts during conciliation, mediation, or arbitration process.

STRIKE

The right to refuse to perform work duties:

1. Circumstances that may endanger the life or health of the employee or a third party have arisen;
2. The employer demands the employee to work overtime that exceeds the limit of overtime provided by the law;
3. The employer has failed to pay the employee within 30 days from the due date of payment of salary.

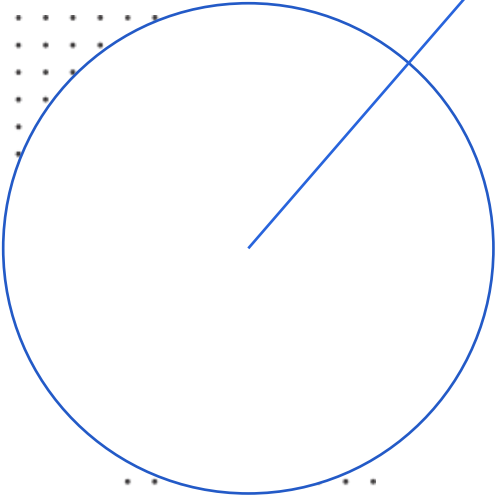
In this case, the employee shall notify the employer or its representative immediately.

The employee has the right not to work until the above-mentioned circumstances are eliminated.

It shall be prohibited to impose labor disciplinary sanctions to the employee in connection with such refusal to work.

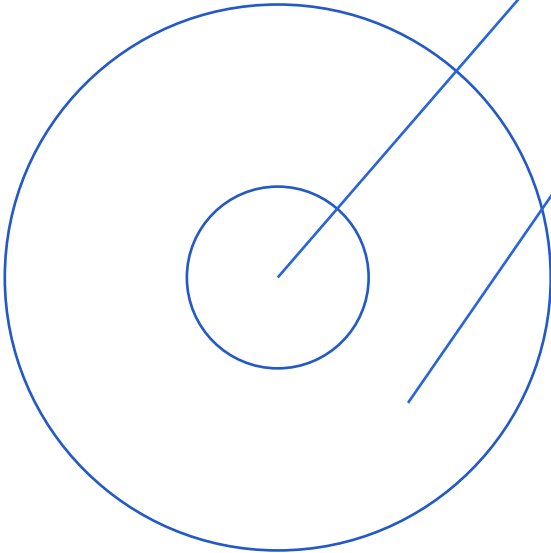
HOURS OF WORK & REST

Under the Revised Code /2021/



All persons under 18 – **up to 30 hours**

Under the Current Code /1999/



Persons between 14-15 – **up to 30 hours**

Persons between 16-17 – **up to 36 hours**

HOURS OF WORK & REST

**Maximum working
hours**



Weekly – up to 56 hours

Overtime limit per day



Up to 4 hours



HOURS OF WORK & REST

Shift-work hours



- ❑ Shift hours and schedule – to be notified at least 48 hours before the start of the shift work
- ❑ Hours exceeding 40 hours per week shall be paid 1.5 times higher than the employee's average salary

Night hours



- ❑ Employees worked during night time (10PM-06AM) –**rest the following day.**
- ❑ **Preventive medical examination** at the employer's expense for full time night shift employees.
- ❑ Nighttime work for pregnant women, employees with children under 3 (*allowed with their consent*), and persons under 18 – prohibited

HOURS OF WORK & REST

On-call hours:

- The period when the employee is made wait being available to work on-call outside of normal business hours at the agreed location and time.*
- Employee has waited at the location determined by the employer – right to an additional payment in the amount equal to 50% of the employee's base salary, otherwise, at least 30% of the base salary
- At least 24 hours prior notice of the date and hours
- Up to eight times a month.

Long shift

- In the case of working in a remote area other than the employee's place of residence, **employers in the mining and exploitation sector, as well as their contractors** may use a long-term shift work regime.
- The duration of one working day shall be 12 hours and the term of one shift shall be 14 days and the term for rest shall be 14 days as well.

Other new regulations:

- Employers are obliged to keep records of working hours of employees.
- Working hours per week for employees who work part-time shall not exceed 32 hours.

SALARY & ALLOWANCE

Compensation	Amount
Overtime pay	<ul style="list-style-type: none"><input type="checkbox"/> The employee who has worked during the nighttime has not rested – compensation in the amount equal to 1.2 or more times higher than his/her average salary.<input type="checkbox"/> In the case of overtime work, and night-time work on weekends or public holidays – Both overtime pay and extra pay for night works.
Payment for annual leave	<ul style="list-style-type: none"><input type="checkbox"/> In case of being unable to provide the employee's annual leave due to urgent business needs – compensation in the amount equal to 1.5 times higher than his/her payment for annual leave.
Allowance for employees under the protection of witnesses and victims	<ul style="list-style-type: none"><input type="checkbox"/> Period the employee has been under the protection of witness and victim according to the relevant legislation – allowance in the amount equal to the salary that he/she would have received during that period.<input type="checkbox"/> Reduction of salary due to transfer to another job – difference in his/her salary in to be paid.

SALARY & ALLOWANCE

GROUNDS TO WITHHOLD FROM THE EMPLOYEE'S SALARY

- There is a valid decision of Court or Labor dispute settlement body;
- The employee has been imposed labor disciplinary sanction of reduction of base salary by up to 20% for a period of up to three months.

In the case of withholding from the employee's salary, the employee shall be notified in advance.

LABOR DISCIPLINARY SANCTIONS, LIABILITIES

Timeline for imposing labor disciplinary sanctions

Normal employees

- Within **6 months** from the date of breach or from the last day of the breach if such breach is carried on.
- Within **one month** from the date when the employer found out about the breach.

Employees under full property liability

- within **one year** from the date of such breach or from the last day of the breach if such breach is carried on.

Interruption of limitation period

- The period during leave upon a medical certificate;
- The period during annual leave;
- The period during personal leave;
- The period during inspection of the disciplinary breach by law enforcement, audit, and other competent authorities.

LABOR DISCIPLINARY SANCTIONS, LIABILITIES

EMPLOYER'S LIABILITY

The employer fails to pay the salary within the agreed period



a penalty equal to 0.3% of the salary to be paid for each overdue day.

Employees use their own equipment & items due to the employer's failure to provide necessary equipment & facilities



respective expense to be reimbursed

Parties agreed to use the employee's equipment and items



respective expense to be reimbursed

LABOR DISCIPLINARY SANCTIONS, LIABILITIES

GROUNDS FOR FULL PROPERTY LIABILITY

- ❑ An employer who has entered into an agreement on full property liability, or whose employment agreement specifically provides such liability clause has caused damage to the employee during the performance of his/her work duties.
- ❑ An employee who has received properties and valuable items upon a power of attorney or other documents to prepare reports later has **failed to report their expenditure within the period** specified in internal labor regulations or has failed to return the properties that are not disposed of.

Before determining
the amount of
property damage

- Investigate the situation
- Demand written explanation from the employee;
- Unless the employee provides explanation, record it.

LABOR DISCIPLINARY SANCTIONS, LIABILITIES

PROCEDURE FOR COMPENSATION FOR PROPERTY DAMAGE

- Parties may mutually agree on partial payment by the employee.
- In case of termination of employment relation, compensation for property damage may be claimed in court.
- If the employer allows, the employee may satisfy the damage by replacing the property with items of the same or similar quality, or repairing the property.
- If the employee considers that **decision on imposing property liability is unjustifiable**, or that **the employer has violated compensation procedure**, he/she may file a complaint to a labor dispute settlement body or court.

EMPLOYMENT RELATIONS OF SOME GROUPS OF POPULATION

PERSONS WITH NEWBORN OR ADOPTED INFANTS, THEIR LEAVE

- A mother who gave birth to twins – 140 days of maternity leave.
- A father with a newborn – at least 10 days of leave & an amount equal to the average salary for that period.
- Father or mother who adopted an infant – paid leave in the amount equal to the average salary for a period until the infant is 60 days.
- Request for reduction of working hours instead of breaks for breastfeeding or caring for their child.
- Employers – Provide employees with a room for breastfeeding to the extent of their ability.
- A pregnant woman or an employee with a child under 3 –work from home or remotely upon mutually agreeing with their employer.

EMPLOYMENT RELATIONS OF SOME GROUPS OF POPULATION

MINOR LABOR

As per the Minimum Age Convention (No 138) of the ILO, National laws or regulations may permit the employer or work of persons 13 to 15 years of age on light work which is

- Not likely to be harmful to their health or development; and
- Not such as to prejudice their attendance at school, their participation in vocational orientation or training programs approved by the competent authority or their capacity to benefit from the instruction received.

New provisions in accordance with the above requirements are regulated in the revised law. For instance:

- Involvement of **persons under the age of 15 in art or sports events and advertisements – a permit from the state inspector for children’s rights** from time to time;
- Employment of persons under the age of 18 – information** on such persons including their full name, date of birth, jobs to perform, term of employment, and working condition, etc., – **to be recorded and notified to a state organization in charge of labor inspection within 10 business days** from the commencement of the employment relation.
- Employment of persons of age between 15 to 18 –Tripartite agreement with them and their legal representative.

EMPLOYMENT RELATIONS OF SOME GROUPS OF POPULATION

EMPLOYMENT OF PERSONS WITH DISABILITIES

Employers are obliged to provide persons with disabilities with accessibility to work by providing necessary equipment or facilities.

New ground for release from or reduce payment for each position not filled by persons with disabilities:

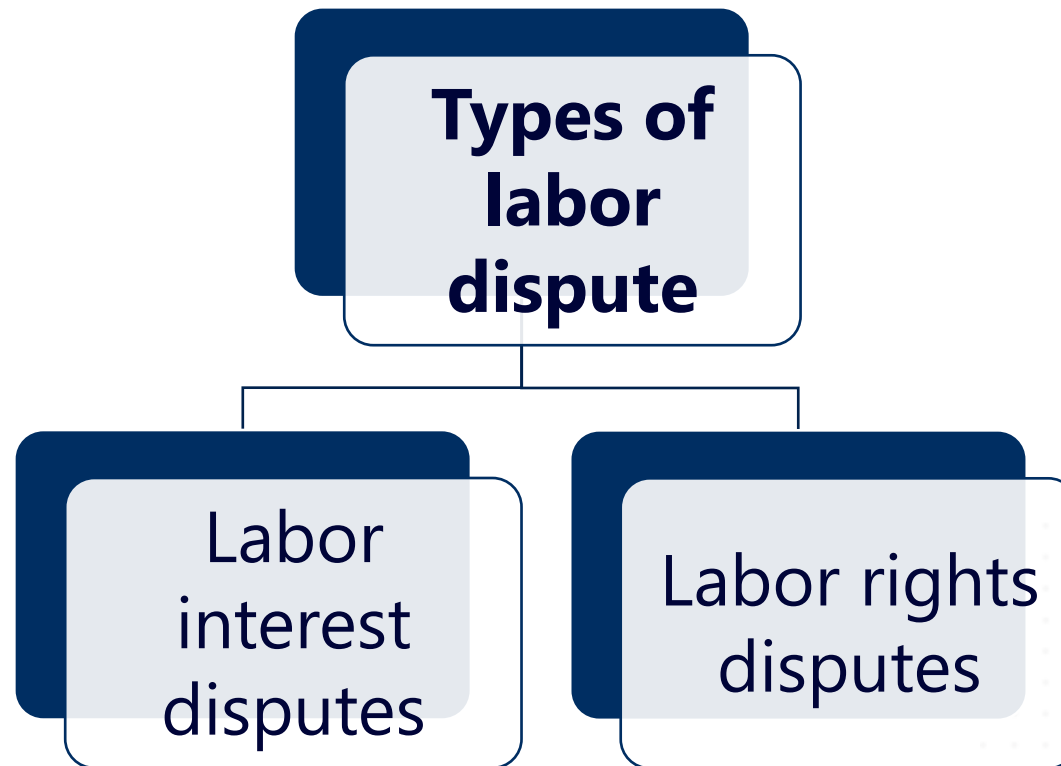
- The employer supports the activities of (a) **persons with disabilities** or (b) **persons who are taking care of their family member with a disability at home** by regularly purchasing goods, products, and services produced by them under an agreement.

The employer shall take all possible measures to enable an employee who cares for a person with a disability to work from home, remotely, or part-time at his/her request.

LABOR DISPUTE RESOLUTION

Labor interest disputes:

"Disagreement between the parties arising in connection with collective bargaining, conclusion or amendments of all kinds of collective agreements and collective bargaining agreements, as well as the amendment of employment agreements".

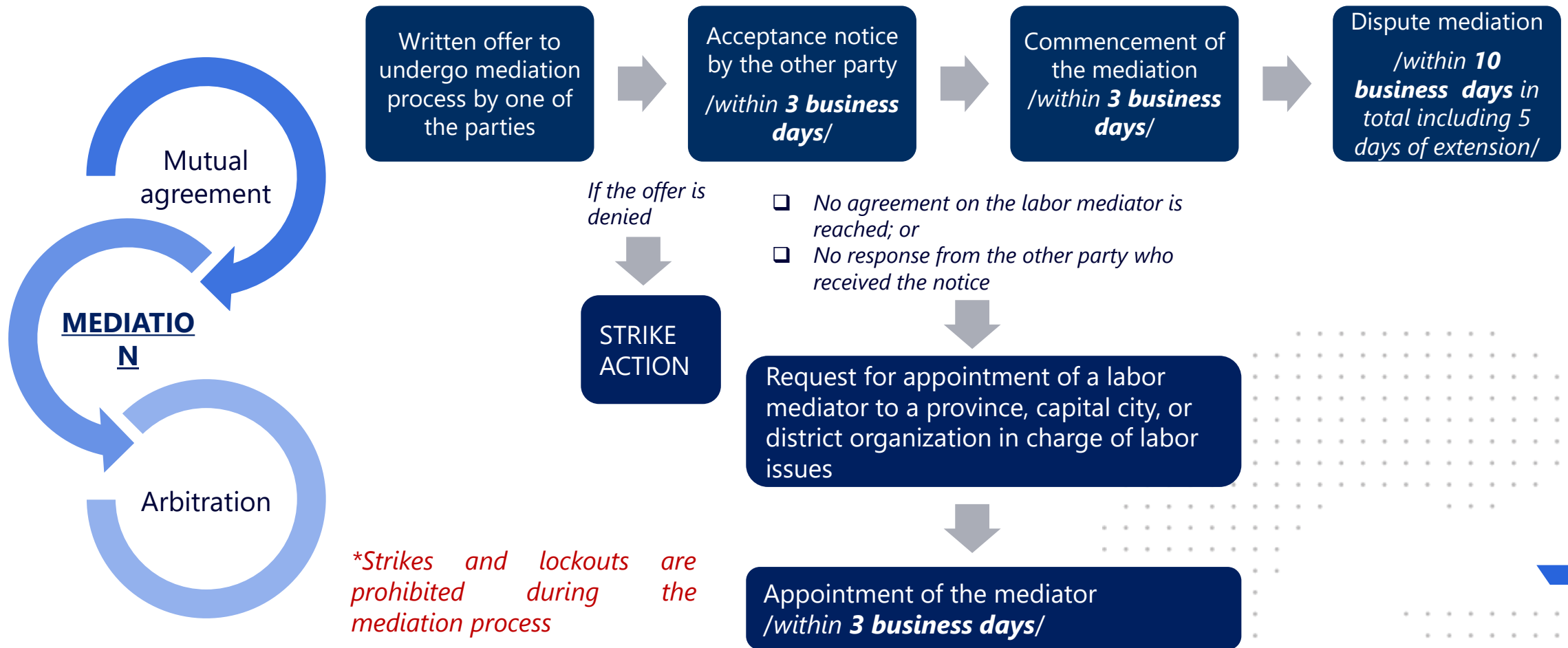


Labor rights disputes:

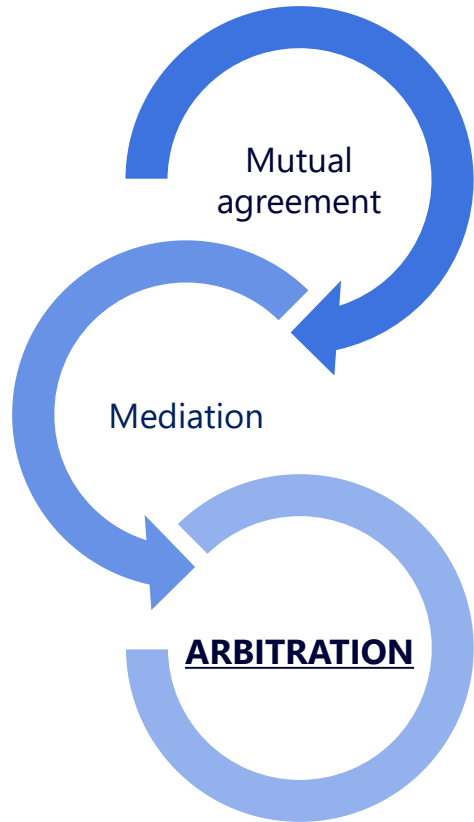
"Disagreement between the parties arising in connection with implementation and interpretation of the labor legislation, all kinds of collective agreements, collective bargaining agreements, employment agreements, and internal labor regulations".

LABOR DISPUTE RESOLUTION

LABOR INTEREST DISPUTES



LABOR DISPUTE RESOLUTION



Request for arbitration to tripartite committee for labor & social partnership



Appointment of an arbitration board consisting of 3 members /within 3 business days/



Dispute resolution /within 15 days including 5 days of extension/

LABOR INTEREST DISPUTES

To file a complaint to court

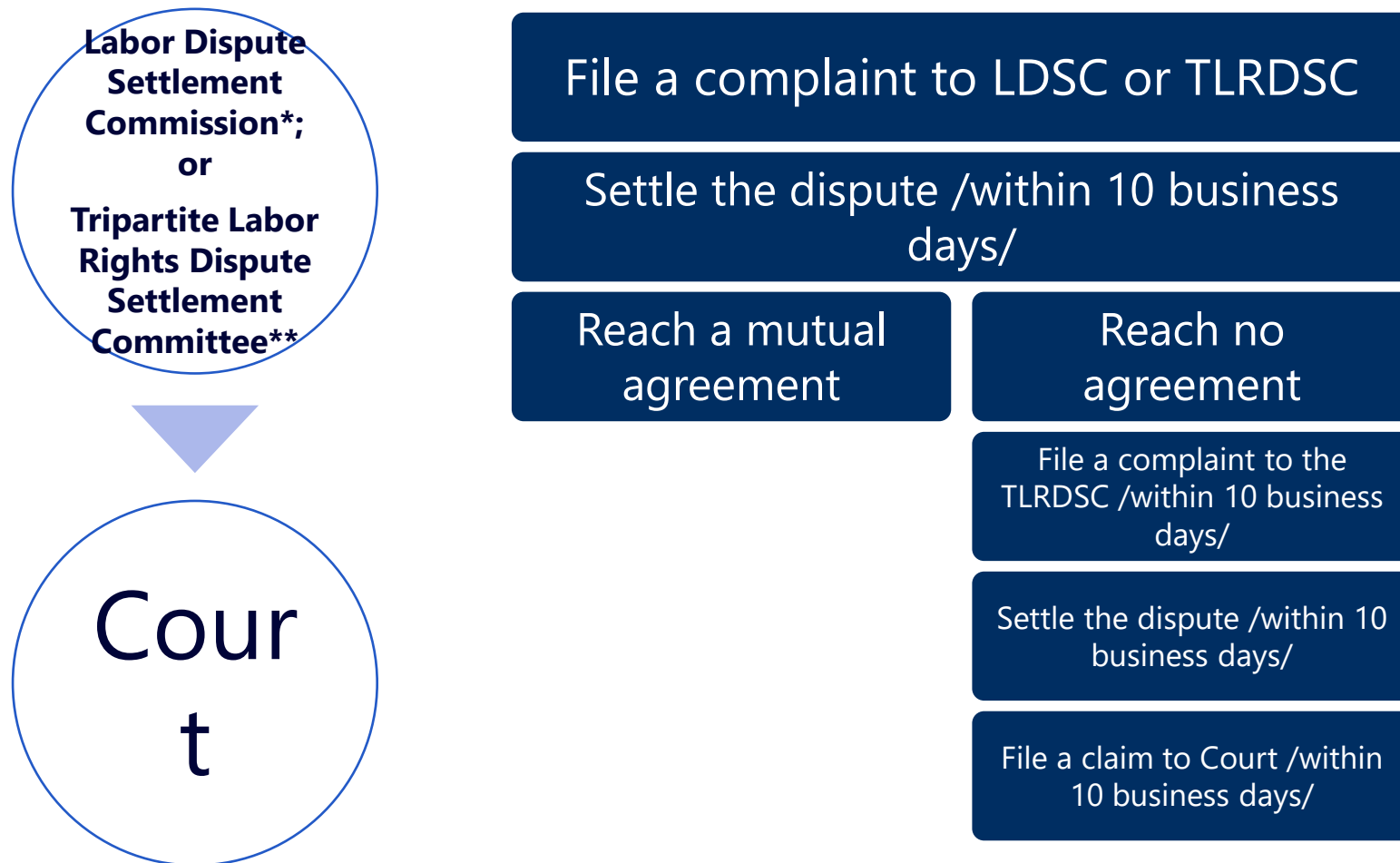


Labor interest disputes in business entities and organizations that provide the population paramount services related to national defense, ensuring the national security, and maintaining public order, etc., shall be settled by arbitration directly skipping mediation process.

- Only in the case of procedural errors

LABOR DISPUTE RESOLUTION

LABOR RIGHTS DISPUTES



Within 30 days from the receipt of the decision on the following matters, if it is unjustifiable:

- Cancellation or termination of the employment relation;
- Transfer to another job;
- Rotation.

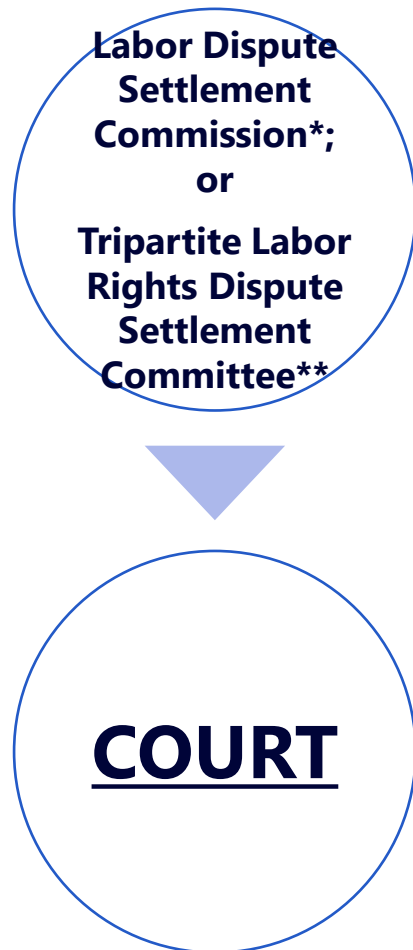
Within 90 days, in case of other labor rights disputes

***company-level** labor rights dispute settlement body which is **mandatory for business entities and organizations that have 20 or more employees.**

****soum or district level** labor rights dispute settlement body

LABOR DISPUTE RESOLUTION

LABOR RIGHTS DISPUTES



LABOR DISPUTES SUBJECT TO DIRECT SETTLEMENT BY COURT

- **MANDATORY**
 - Complaint against the decision of the TLRDSC;
 - Claims by employers regarding compensation for property damage;
 - Complaints by employees regarding the fact that collective agreements, collective bargaining agreements, terms & conditions of employment agreements, and internal labor regulations violate labor legislation;
 - Complaints regarding failure to enforce valid decisions of the LPSC or TLRDSC;
 - Others.
- **OPTIONAL**
 - Claims regarding compensation for damages caused to life and health of employees in the course of performance of work duties;
 - Complaints regarding unjustifiable decisions on cancellation or termination of employment relations, or transfer to another job, or job rotation.

CONCLUSION

- ❑ The law has become more compliant with international conventions(ILO) on labor related matters;
- ❑ Legal basis for implementation of fundamental principles and rights at work is set out – lodging complaint, defaulted party to be liable for his/her actions;
- ❑ Employment relation shall commence from the beginning of performance of work duties despite of written employment agreement;
- ❑ A number of other new regulations:
 - New types of employment agreements;
 - Additional terms to be regulated under EA or complementary agreement;
 - Application of labor supply agreement;
 - New grounds for temporary transfer to another position;
 - Legal grounds of Job rotation;
 - Redundancy;
 - Unemployment allowance etc.

CONCLUSION

- Principles in collective bargaining and strike;
- Prevention from imposing labor disciplinary sanctions in connection with participation in collective bargaining;
- New grounds to initiate, organize, or end strike;
- Maximum working hours per week, and overtime limit per day;
- Additional obligations for employers such as provision of preventive medical examination and keeping records of working hours of employees;
- New regulation of working on on-call hours;
- Changes of amount of compensation for overtime pay, annual pay, etc.;
- Additional grounds to withhold from the employees' salary;
- Interruption of limitation period;
- New regulation on penalty for not providing salary in time;
- New requirements for light works for persons under 18;
- New ground to release or reduce payment for each workplace to be hired with persons with disability;
- Availability to settle labor disputes in the first instance with the help of a labor mediator, as well as through arbitration.

USED SOURCES

- ❑ **Revised Labor Code** – <https://www.legalinfo.mn/law/details/16817?lawid=16817>
- ❑ **Legal alert on the Revised Labor Code** – <https://gratanet.com/news/legal-alert-revised-labor-code-of-mongolia>



THANK YOU!

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