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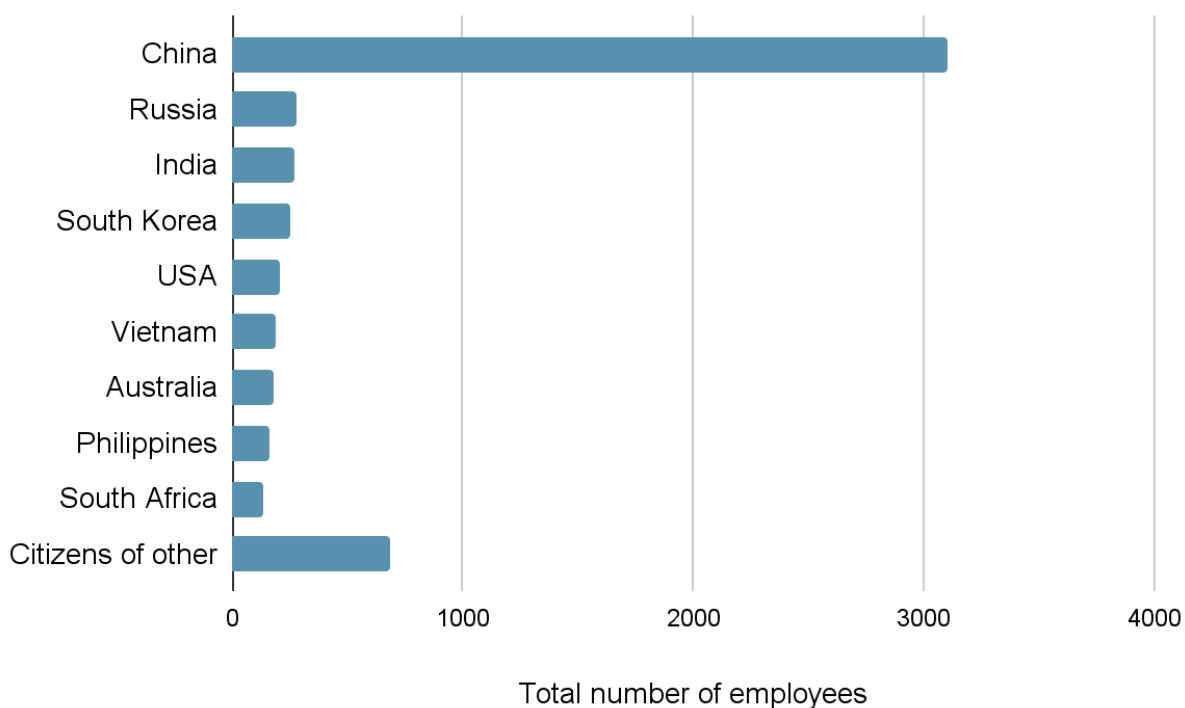
**LEGAL REGULATION ON OBTAINING WORKFORCE AND
SPECIALISTS FROM ABROAD**

GRATA International Mongolia

LEGAL ALERT: legal regulation on obtaining workforce and specialists from abroad

As of the first quarter of 2022, 5463 citizens from 92 foreign countries are working under labor contracts in Mongolia. The number of foreigners working under labor contracts increased by 1,030 or 23.2 percent from the same period last year. 4,752 (87.0 percent) out of the foreign nationals employed under contract are men and 711 (13.0 percent) are women. 36.6 percent of foreigners working under labor contracts live in Ulaanbaatar, 5.8 percent in the West region, 5.3 percent in the Khangai region, 36.7 percent in the Central region, and 15.6 percent in the East region.

Considering foreigners employed under labor contracts by nationality:



There are 5 steps to get a workforce and specialists from abroad. It includes:

1. Getting pre-approval or invitation for a work permit;
2. Visa application;
3. Foreign labor force entering Mongolia;
4. Obtaining a work permit;
5. Getting a residence permit.

Enterprises, organizations and citizens may enter into an agreement with foreign legal entities on the acquisition of Labor and specialists from abroad for works or professions requiring high professional skills for the purpose of scientific, educational and advanced manufacturing technologies, conducting new production and services, assembling and repairing equipment, and carrying out projects.

The agreement on hiring foreign workers and specialists shall include the following

general conditions¹:

- foreigner's work organization and work duties;
- profession of a foreigner, job title, the number of foreigners to be employed;
- health requirements for foreign nationals;
- conditions for mutual acceptance of documents confirming the level of profession and education;
- the term of the agreement, the conditions for the termination of the agreement and its cancellation;
- amount of salary;
- occupational safety and health, working conditions, work and rest hours;
- issues of housing and household supplies;
- social insurance issues;
- methods of resolving disputes arising out of the implementation of the agreement and labor disputes.

Determining the Number and Percentage of Foreign Employees

The Government issues a resolution on the number and percentage of foreign workers to be employed in Mongolia by the economic activity sector by October 1 of each year and determines the percentage.

The calculation of the ratio of foreign citizens determined by the Government is based on the reference on Social Insurance Premium paid by Mongolian employees. In order to accurately and objectively determine the number of employees, the reference shall be obtained from the Social Insurance Department of the district. A work permit is issued by the state authorities, based on the ratio of foreign citizens and professionals working in the field of economic activity and foreign citizens to the total number of employees in Mongolia determined in accordance with the above reference.

Pursuant to the Resolution No. 231 of the Government of Mongolia on labor force and specialists to be recruited from abroad in 2022, it has been determined that enterprises and organizations operating in Mongolia in 2022 will not be limited in terms of the percentage of labor and specialists to be recruited from abroad.

In 2021, according to the Government Resolution No. 123 of 2021, enterprises and organizations with 5-20 Mongolian employees were able to employ 1 foreign employee regardless of the economic sector. Since the decree is updated every year, it should be noted that there may be some changes in the regulations of personnel and experts hired from abroad in 2023.

Based on the reference from the state administrative organization in charge of investment matters, up to 3 representatives of the management team of a foreign investor legal entity, 1 foreign investor of a foreign-invested enterprise or organization can work without having to obtain a work permit, regardless of the percentage and number specified in this resolution.

The duration of the work permit for a foreign citizen in Mongolia is up to 1 year, and the

¹ <https://mlsp.gov.mn/content/detail/1054>

permit period can be extended based on the request of the employer organization, the results of the work performed and the service, and the reason for further employment. The duration of the work permit issued to a foreign citizen shall be counted from the date of the written request of the employer organization.

A citizen with a visa-free travel passport has the right to travel for 30 days, thus, it is necessary to obtain a work invitation before arrival.

Pre-approval or Invitation for Work Permit

The enterprise invites the foreign employee, sends the visa invitation letter to the applicant or employee, and pre-approves the work permit as the preliminary action. The following documents are required:

1. Application form;
2. State stamp duty (25000 MNT ~ 7.9 USD per person);
3. A copy of the State Registration Certificate of enterprise, organization;
4. A copy of the license certificate and its attachments;
5. If exempted from the quota under a Government Decree, a copy of the decree (If required). The quota for foreign employees is set annually by the Government of Mongolia for domestic and foreign enterprises operating in Mongolia;
6. Forms ND-7 and ND-8 of the last month of social insurance verifying the number of employees who pay the social insurance premium in the organization;
7. Reference from ministries and agencies in the field of employment economy;
8. The proposal of the Department of Labor and Welfare Services of the respective province or district;
9. Employment agreement concluded with a foreign legal entity, along with its Mongolian translation (with a stamp of a certified translation bureau);
10. A copy of a foreigner's passport;
11. A copy of a professional ID card or diploma (with a stamp by a certified translation bureau) showing that the employee has graduated from a university in the field of his/her employment;
12. Other materials as needed.

Foreigners must apply for a preliminary permit one month before coming to Mongolia. The request will be resolved within ten working days after receiving it.

Applying for Visa Approval

"Mongolian visa" means a permit to enter Mongolia and stay in Mongolia for a certain period of time, issued by an authorized organization. Unless otherwise specified in the international agreement of Mongolia, a foreign citizen entering Mongolia must obtain a Mongolian visa in accordance with the appropriate procedure. Visas are issued to foreigners who have a valid passport or a document that replaces a passport.

Foreigners coming from a country where there is an embassy or consul of Mongolia shall apply to the embassy, otherwise, they shall apply for a visa permit at the border.

A foreign citizen staying in Mongolia for more than 91 days can apply for a residence

visa permit for official or private affairs and can obtain a visa for diplomatic, official, investor, worker, student, family purposes, personal purposes, religious purposes, and emigration.

Investor visas have the following categories:

- An investor of a foreign-invested enterprise (B1) and a related person of the investor (B1-1);
- A foreign citizen appointed as the representative or executive management of a investor of a foreign-invested enterprise (B2) and a related person of the foreign citizen appointed as the representative or executive management of the investor (B2-1);
- A foreigner working as a head of a representative office of a foreign legal entity (B3) and a related person of the foreigner working as a head of a representative office of a foreign legal entity (B3-1);

Work visa has the following categories²:

- Foreign nationals coming to work in construction, roads, bridges, and development sectors (C1) and persons related to the foreign nationals (C1-1);
- Foreign nationals coming to work in the field of science, education, and information technology (C2) and persons related to the foreign nationals (C2-1);
- Foreign citizens coming to work in geology, mining, oil, and energy (C3) and persons related to the foreign nationals (C3-1);
- Foreign nationals coming to work in financial, economic and legal fields (C4) and persons related to the foreign nationals (C4-1);
- Foreign nationals coming to work in the field of culture and sports (C5) and persons related to the foreign nationals (C5-1);
- Foreign nationals coming to work in the production and service sector (C6) and persons related to the foreign nationals (C6-1);
- Foreign nationals coming to work in agriculture and farming (C7) and persons related to the foreign nationals (C7-1);
- Foreign nationals coming to work in the health sector (C8) and persons related to the foreign nationals (C8-1);
- Foreign nationals coming to work in the humanitarian sector (C9) and persons related to the foreign nationals (C9-1);
- Foreign nationals coming to work in the field of care and services for household needs (C10);
- Foreign nationals coming to work in the transport sector and transporting cargo for export (C11).

Work Permit

After the arrival of the labor force and specialists invited by enterprise, organization from abroad with a work visa, the inviting entity shall register within 10 working days and obtain a work permit along with the following documents.

1. An official letter filled out in detail in Form-2 "Requesting a Work Permit";
2. State stamp duty (22500 MNT ~ 7.1 USD per person);

² <https://immigration.gov.mn/mn/visa-total/visa-type/>

3. Receipt of payment for the workplace (840,000 MNT ~ 263.9 US dollars per person per month)
4. A copy of the state registration certificate of enterprise, organization;
5. A copy of the license certificate and its attachments;
6. If exempted from the quota under a Government Decree, a copy of the decree;
7. Passport of a foreigner with a stamped page demonstrating the border entry;
8. Conclusion letter of medical examination and analysis according to the form approved by the joint order of the Ministers of Health and Labor (Requirements: take foreign workers and experts to the respective health center for health inspection and analysis, and ensure that the conclusion is signed by the doctor or general practitioner, and that the date and the conclusion are legibly written and certified by a stamp).

Issuance of work permit takes 3-5 working days. Work permits are issued for a period of up to one (1) year.

Workplace Payment

The term "workplace payment" means the payment imposed by law for the provision of jobs and income-generating work and services to foreign citizens by enterprises, organizations, and individuals operating in the territory of Mongolia.

The amount of the monthly workplace payment per foreign citizen is equal to twice the monthly minimum wage set by the Tripartite National Committee for Labor and Social Consensus in accordance with article 5.1 of the Law on Minimum Wage. As of 2022, the minimum wage is 420,000 MNT ~ app USD 131.3.

Enterprises and organizations may apply for reduction and exemptions from workplace payment for foreign nationals by submitting the relevant materials specified in the "Procedure for payment, reduction, and exemption from workplace payment" approved by Government Resolution No. 41, dated 2015. Strategic infrastructure projects such as roads and railways are eligible for this reduction and exemption.

Exemption from and Reduction of Workplace Fees

The relations in connection with the receipt of payment, reduction, and exemptions from workplace payments stipulated in article 9 of the Law on Export of Workforce, Recruiting Workforce and Specialists from Abroad are regulated by the Procedure for payment, reduction, and exemption from workplace payment, which is an appendix to the 2015 Government Resolution. Investors, members, and up to 3 representatives of the management team of foreign-invested enterprises shall be exempted from the workplace payment based on the reference from the state administrative organization in charge of investment.

In addition, the following foreign nationals are exempted from workplace payment:

- Employees of foreign diplomatic missions and consulates in Mongolia and their families;
- A foreigner and his/her family working in the representative office of an international organization (UN Development Program Office, World Health Organization Branch, etc.);
- Foreign consultants, experts, teachers, and academic staff working under contracts in educational institutions and scientific fields;

- In the case specified in the intergovernmental agreement, specialists and employees working under the agreement;
- A volunteer working in accordance with international agreements and agreements signed with the central government administration organization of Mongolia;
- An employee of a foreign non-governmental (non-profit) organization conducting humanitarian activities in Mongolia with legal permission;

Exemption from and reduction of workplace payment for foreign workers and specialists shall be based on International agreements of Mongolia, agreements concluded by the Government, Ministries, and Government agencies, as well as the citizen's professional diploma, identity card, and request of the organization.

Residence Permit

This permit will be obtained from the Immigration Agency of Mongolia (hereinafter referred to as the IAoM) by submitting the following materials. It must be applied within 21 days from the day of entering Mongolia. A foreigner seeking a residence permit in Mongolia for the first time must personally come to the Immigration Agency of Mongolia and register his/her non-overlapping physical data (fingerprints, photographs). A foreign citizen who has applied for a residence permit for official or personal affairs shall be required to undergo a medical examination if necessary.

List of documents to be submitted (worker category):

- Request of the inviting enterprise or organization (including detailed information on the types of business, the necessity and time period for employment of foreign nationals in Mongolia);
- The original formal application and other documents submitted at the time of applying for visa permit, along with their copies;
- Original passport and a copy of the document replacing the passport (valid period of the passport must not be less than 180 days);
- Permits issued by the General Department of Labor and Welfare Services;
- A residency reference obtained from the governor of the district or khoroo;
- Other required documents;
- Receipt of payment of stamp duty;
- Application form;
- A power of attorney, workplace identification card, and a copy of identity card of an applicant employee of the entity.

The request shall be made personally by the foreigner or his/her authorized representative. If the request for residence permit is declined, the applicant may file a request again after 90 days.

List of required documents (investor category):

- Request of the inviting enterprise or organization (including detailed information on the types of business, the purpose and duration of the foreigner's stay in Mongolia);
- The original official request and other documents submitted at the time of applying for visa permit, along with their copies;

- A residency reference obtained from the governor of the district or khoroo;
- Original copy of passport or a document replacing the passport (valid period of the passport is not less than 180 days);
- Other required documents (tax and social insurance reference - last 3 years including the current year, etc.)
- A power of attorney, workplace identification card, and a copy of identity card of an applicant employee of the entity;
- Receipt of payment of stamp duty;
- Application form.

Residence permit is issued for a period of up to 1 year.

As of 2022, 5,463 foreign nationals from more than 90 countries are employed in Mongolia under employment contracts. When recruiting foreign laborforce and specialists, it is advisable to take in account the annual Government Decree on Determination of the Number of Foreign Employees and Their Ratio, preliminary work permits or invitations, visa permits, work permits, workplace payments and conditions for exemption from and reduction of such payments, and documents required for obtaining a residence permit.

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