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Introduction of law of mongolia on licensing

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BRIEF INFORMATION OF LAW OF MONGOLIA ON LICENSING

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The State Great Khural (the Parliament) approved the revised version of the Law on Licensing on June 17, 2022 and shall become effective from 01 January 2023. Member of Parliament H. Gankhuyag worked as a leader of the working group on this draft law. The Law on Licensing of business activity, which is valid today, was approved on February 01, 2000, and was amended 69 times in the past. The newly approved Law on Licensing has 35 articles in 9 chapters and provides for the issuance of more than 360 licenses in 14 areas of special licenses and 12 areas of common licenses.

The following activities of 14 fields shall be carried out with special licenses (Article 8.1 of the Law on Licensing):

1. Environment;
2. Banking and non-banking financial services;
3. Construction, urban development and public utilities;
4. Defense;
5. Road and transport;
6. Financial, economic, customs and investment;
7. Cultural and education;
8. Mining and heavy industry;
9. Communication and information technology;
10. Employment activities;
11. Legal and other common issues;
12. Food, agriculture and light industry;
13. Health; and
14. Power.

In accordance with Article 8.2 of the Law on Licensing, the 12 fields for activities with common licenses are subject to the above-mentioned 14 fields, except the defense and energy.

List of special licenses:	Authorized person to grant a special license:
1. Activities in the environment:	a) The Government; b) State central administrative body in charge of issues with the special protection areas ; c) Governors of the capital and

	<p>province as well as free zone administrators in the free zones;</p> <p>d) Governors of the capital and province;</p> <p>e) Forest department or area ranger;</p> <p>f) Environmental department of the respective province or capital.</p>
2. Activities in banking and non-banking financial services:	<p>a) Bank of Mongolia;</p> <p>b) Financial Regulatory Commission.</p>
3. Activities in construction, urban development and public utilities:	<p>a) Central state administrative organization in charge of construction;</p> <p>b) Central state administrative organization in charge of geodesy and cartography;</p> <p>c) Central state administrative organization in charge of land issues;</p> <p>d) Central state administrative organization in charge of urban development;</p> <p>e) Council for regulating the operation, maintenance and service of water supply and sewerage in cities and towns.</p>
4. Activities of defense:	<p>a) The Government;</p> <p>b) The highest organization of military professional management of Air Command of Armed Forces or Directorate General of Border Protection;</p>
5. Activities in road and transport:	<p>a) The Government;</p> <p>b) Central state administrative organization in charge of road</p>

	<p>issues;</p> <p>c) Central state administrative organization in charge of road transport;</p> <p>d) Central state administrative organization in charge of railway transport;</p> <p>e) Central state administrative organization in charge of waterway transport;</p> <p>f) State administrative organization responsible for civil aviation.</p>
6. Activities in financial, economic, customs and investment:	<p>a) Member of the Government in charge of financial and budget matters;</p> <p>b) Central customs management organization.</p>
7. Activities in cultural and education:	<p>a) Central state administrative organization in charge of education;</p> <p>b) Central state administrative organization in charge of cultural affairs;</p> <p>c) Governor of the respective province or capital;</p> <p>d) Office of the governor of the sum, or district;</p> <p>e) National Council for Educational Accreditation.</p>
8. Activities of mining and heavy industry:	<p>a) The Government;</p> <p>b) Central state administrative organization in charge of petroleum issues;</p> <p>c) Central state administrative</p>

	<p>organization in charge of geology and mining;</p> <p>d) Central state administrative organization in charge of heavy industry;</p> <p>e) State administrative organization responsible for state specialized inspection;</p> <p>f) Nuclear Energy Commission;</p> <p>g) Governor of the respective province or capital.</p>
9. Activities of communication and information technology	<p>a) Central state administrative organization in charge of e-development and communication issues;</p> <p>b) Telecommunications Regulatory Commission.</p>
10. Activities of employment activity:	<p>a) Central state administrative organization in charge of labor issues.</p>
11. Activities in legal issues and other common problems:	<p>a) A member of the Government in charge of legal issues;</p> <p>b) State administrative body in charge of issues with;</p> <p>c) State administrative body in charge of issues with the intellectual property;</p> <p>d) Central Police Organization;</p> <p>e) Office of the governor of the respective province, capital, sum, or district;</p> <p>f) Bar Association.</p>
12. Activities of food, agriculture and	<p>a) The Government;</p>

light industry:	<ul style="list-style-type: none"> b) Member of the Government in charge of food affairs; c) Member of the government in charge of Agriculture; d) The governor of the respective province or capital, or the governor of the free zone in the territory of the free zone; e) Governor of the respective province or capital.
13. Activities of health:	<ul style="list-style-type: none"> a) Member of the Government in charge of health; b) The central state administrative organization in charge of health issues, or the health department of the province or capital; c) Health department of the respective province or capital.
14. Activities of energy:	<ul style="list-style-type: none"> a) Central state administrative organization in charge of energy issues; b) Energy Regulatory Committee, in other cases, the regulatory council of the province or capital.

The purpose of this law is to regulate the relation with respect to issuing, suspending, revoking and canceling issued license from an authorized person to engage in certain types of activities that may adversely affect national security, financial stability, public interest, human health, environment for conducting certain business, or possess and use state and public properties as well as to determine the classification and types of license, their registration and activities prohibited in the territory of Mongolia.

Highlights of the newly approved Law on Licensing:

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1. Activities that may pose a risk to national security, public interest, public health, environment, and financial stability, or professional activities to be carried out on the basis of meeting special conditions and requirements, or land for the purpose of making profit or for industrial purposes, as well as issuing special licenses for the use of the subsoil, its resources, natural and limited natural resources;
2. One-time activities, or additional activities to be carried out on the basis of a special license, or to issue a common license for the use of land, subsoil, its resources, natural and limited natural resources for household purposes;
3. Unless otherwise specified by law, special licenses must be issued for at least five years and common licenses for at least three years;
4. Issuance of licenses granted for the purpose of making profit or production, as well as the subsoil, its resources, natural and limited natural resources for a period of time;
5. To issue licenses other than the above licenses without a time limit in cases specified by law;
6. Unless otherwise specified by law, the period of additional activity based on obtaining a special license shall be the same as the period of the special license;
7. Name the licenses related to the use of natural resources, and the regulations for the auction or selection of those licenses in an open and transparent environment with the aim of creating equal competition are newly included;
8. Arrangements for digitization of processing of applications for licenses and renewals. The person authorized to grant the license shall register the information on the granting, extension, suspension, restoration of the license, the decision to cancel it, the pledge of the license, and the information transferred in other forms in the electronic unified fund.

As of January 1, 2023, the Law on Licenses will come into force, and the following changes will occur:

1. Upon the implementation of the Law on Licensing, the Government will be directed by the resolution of the State Great Khural (the Parliament) to revise the Law on State Stamp Fees and Law on Standardization and Metrology, which will be implemented together with this law, and submit them to the State Great Khural (the Parliament) within a certain period of time. In this way, the Government will submit draft law to amend the above laws and other related laws to the Parliament within the period specified by the resolution, and clarify a number of issues related to those laws. For example:

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Enterprises often lose time due to multiple stages of documentation and approval issues in order to obtain a license. Because the number of licenses is directly related to corruption, there was an imperative to reduce the number of licenses and legal concepts. With the approval of the Law on Licensing, the number of licenses issued by the state will be reduced by four times.

2. Non-permanent council which consists from representatives of the Government, private sector, and non-government organizations with the function of monitoring the activities of authorized persons and making suggestions and conclusions about the grounds and requirements for changes to this law will work under the Prime Minister. The office of the Council shall be performed by the Cabinet Office. The Council consists of a Chairman, a secretary and 11 members, and the Council is chaired by the Prime Minister. The Government shall approve the procedure for appointing and dismissing Council members and their work.

The Council shall exercise the following functions:

- a) provide the authorized person with methodological guidance;
- b) to monitor and evaluate the state of licensing and its effectiveness, to make suggestions and conclusions;
- c) make suggestions and conclusions on the issue of amendments to this law;
- d) to monitor the activities authorized by the authorized person and to take measures to eliminate the detected violations;
- e) to submit a proposal to the competent authorities and officials to cancel the decision of the state organization and official that violates the permit laws and the act of administrative norms.

Experts may be involved to provide assistance in matters requiring special knowledge and expertise in order to make relevant suggestions and recommendations for the implementation of this law and the creation and issuance of new licenses.

3. This Council shall conduct an audit of all licenses every three years, retaining those that are necessary and discarding those that are unnecessary each year;
4. In cases where the relationship of the approval process is not regulated in detail by the law of the industry, the application for approval is regulated to be resolved within 23 working days or within 30 calendar days;
5. Based on the risk assessment of each license included in the list of licenses, they are classified into common and special licenses. If the state organization does not decide on

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the response to the application within the time specified by the law, it will be considered that the common license has been granted.

Calculation procedure for issuing a common license:

The common license applicant submits an application for a license to the authorized person along with the documents attached to it. The authorized person will check the documents and take the following actions within two working days after receiving the application for licensing:

- a) start the due diligence process if the documents are found to be complete;
- b) inform the applicant about the replacement if the application and the documents attached to it do not meet the requirements or are incomplete;
- c) transfer the application to the relevant authority under jurisdiction.

If the application and the documents attached to it do not meet the requirements or are incomplete, the period for replenishing the documents is up to 30 days. If the documents are not submitted within this period, the application will be considered as not submitted.

An authorized person shall verify within five working days whether the applicant for a common license meets the conditions and requirements specified in the law.

The authorized person shall make a decision on whether or not to issue a license within five working days after the completion of the verification process. The authorized person shall make a decision to consider the granting of a common license within three working days after the end of the period for processing the application for a license, and notify the applicant within the day of the decision.

6. The process of how the license request is resolved will be monitored electronically by the citizen or organization which requested it;
7. License renewal applications will be processed within 15 working days or 21 calendar days. If the response to the application for the extension of the license period is not given within the period specified by the law, the license shall be considered to have been extended for the period originally granted;
8. 45 days before the end of the license period, the state organization shall notify the license holder of this information;
9. If the license holder does not owe tax, has a permanent and stable activity, and has kept its job places, the license may be extended by doubling the period of the initial granted

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period;

10. There will be unified procedures and standards for property valuation;
11. Assets of state-owned companies will be assessed by enterprises;
12. Provisions have been made to ensure that the person authorized to issue a license provides an answer within the legal time frame, and that the applicant for the license must prepare the documents correctly and in accordance with the law and in a timely manner.

Source:

1. “The Law of Mongolia on Licensing”
<https://legalinfo.mn/mn/detail?lawId=16530780109311>
2. “The Law on Licensing of business activity”, <https://legalinfo.mn/mn/detail/34>
3. “The Law of Mongolia on Licensing”, <https://lawforum.parliament.mn/project/94/>
4. “Draft Law on Licensing”, <https://gratanet.com/mn/publications/draft-law-on-licensing-mongolia>
5. “Revised Law on Licensing approved”, <http://itoim.mn/article/iLRVs/33642>
6. “Highlights of the newly approved Law on Licensing”, <https://news.mn/r/2566270/>
7. “Draft Law: Law of Mongolia on Licensing”, <https://www.montsame.mn/mn/read/298836>

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