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Check

DecentWorkCheck Mongolia is a product of WageIndicator.org
and mysalary.mn/home

National Regulation exists



National Regulation does not exist

01/13 Work & Wages

	NR	Yes	No
1. I earn at least the minimum wage announced by the Government		<input type="checkbox"/>	<input type="checkbox"/>
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)		<input type="checkbox"/>	<input type="checkbox"/>

02/13 Compensation

3. Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate)</i>		<input type="checkbox"/>	<input type="checkbox"/>
4. Whenever I work at night, I get higher compensation for night work		<input type="checkbox"/>	<input type="checkbox"/>
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day		<input type="checkbox"/>	<input type="checkbox"/>
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it		<input type="checkbox"/>	<input type="checkbox"/>

03/13 Annual Leave & Holidays

7. How many weeks of paid annual leave are you entitled to?*		<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 4+
8. I get paid during public (national and religious) holidays		<input type="checkbox"/>	<input type="checkbox"/>
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week		<input type="checkbox"/>	<input type="checkbox"/>

04/13 Employment Security

10. I was provided a written statement of particulars at the start of my employment		<input type="checkbox"/>	<input type="checkbox"/>
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature <i>Please tick "NO" if your employer hires contract workers for permanent tasks</i>		<input type="checkbox"/>	<input type="checkbox"/>
12. My probation period is only 06 months		<input type="checkbox"/>	<input type="checkbox"/>
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)		<input type="checkbox"/>	<input type="checkbox"/>
14. My employer offers severance pay in case of termination of employment <i>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</i>		<input type="checkbox"/>	<input type="checkbox"/>

05/13 Family Responsibilities

15. My employer provides paid paternity leave <i>This leave is for new fathers/partners and is given at the time of child birth</i>		<input type="checkbox"/>	<input type="checkbox"/>
16. My employer provides (paid or unpaid) parental leave <i>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</i>		<input type="checkbox"/>	<input type="checkbox"/>
17. My work schedule is flexible enough to combine work with family responsibilities <i>Through part-time work or other flex time options</i>		<input type="checkbox"/>	<input type="checkbox"/>

06/13 Maternity & Work

18. I get free ante and post natal medical care		<input type="checkbox"/>	<input type="checkbox"/>
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work		<input type="checkbox"/>	<input type="checkbox"/>
20. My maternity leave lasts at least 14 weeks		<input type="checkbox"/>	<input type="checkbox"/>

* On question 7, only 3 or 4 working weeks is equivalent to 1 "YES".

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy
<i>Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity</i> |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | I have the right to get same/similar job when I return from maternity leave |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | My employer allows nursing breaks, during working hours, to feed my child |  | <input type="checkbox"/> | <input type="checkbox"/> |

07/13 Health & Safety

- | | | | | |
|-----|--|---|--------------------------|--------------------------|
| 25. | My employer makes sure my workplace is safe and healthy |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | My employer provides protective equipment, including protective clothing, free of cost |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |

08/13 Sick Leave & Employment Injury Benefits

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 29. | My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. | I have access to free medical care during my sickness and work injury |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | My employment is secure during the first 6 months of my illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | I get adequate compensation in the case of an occupational accident/work injury or occupational disease |  | <input type="checkbox"/> | <input type="checkbox"/> |

09/13 Social Security

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 33. | I am entitled to a pension when I turn 60 |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | When I, as a worker, die, my next of kin/survivors get some benefit |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | I get unemployment benefit in case I lose my job |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident |  | <input type="checkbox"/> | <input type="checkbox"/> |

10/13 Fair Treatment

- | | | | | |
|-----|--|---|--------------------------|--------------------------|
| 37. | My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. | My employer take strict action against sexual harassment at workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 39. | I am treated equally in employment opportunities (appointment,promotion, training and transfer) without discrimination on the basis of:* |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Sex/Gender |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Race |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Colour |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Religion |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Political Opinion |  | <input type="checkbox"/> | <input type="checkbox"/> |

* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.

Nationality/Place of Birth		<input type="checkbox"/>	<input type="checkbox"/>
Social Origin/Caste		<input type="checkbox"/>	<input type="checkbox"/>
Family responsibilities/family status		<input type="checkbox"/>	<input type="checkbox"/>
Age		<input type="checkbox"/>	<input type="checkbox"/>
Disability/HIV-AIDS		<input type="checkbox"/>	<input type="checkbox"/>
Trade union membership and related activities		<input type="checkbox"/>	<input type="checkbox"/>
Language		<input type="checkbox"/>	<input type="checkbox"/>
Sexual Orientation (homosexual, bisexual or heterosexual orientation)		<input type="checkbox"/>	<input type="checkbox"/>
Marital Status		<input type="checkbox"/>	<input type="checkbox"/>
Physical Appearance		<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy/Maternity		<input type="checkbox"/>	<input type="checkbox"/>
40 I, as a woman, can work in the same industries as men and have the freedom to choose my profession		<input type="checkbox"/>	<input type="checkbox"/>

11/13 Minors & Youth

41. In my workplace, children under 15 are forbidden		<input type="checkbox"/>	<input type="checkbox"/>
42. In my workplace, children under 18 are forbidden for hazardous work		<input type="checkbox"/>	<input type="checkbox"/>

12/13 Forced Labour

43. I have the right to terminate employment at will or after serving a notice		<input type="checkbox"/>	<input type="checkbox"/>
44. My employer keeps my workplace free of forced or bonded labour		<input type="checkbox"/>	<input type="checkbox"/>
45. My total hours of work, inclusive of overtime, do not exceed 56 hours per week		<input type="checkbox"/>	<input type="checkbox"/>

13/13 Trade Union Rights

46. I have a labour union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
47. I have the right to join a union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
48. My employer allows collective bargaining at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
49. I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination		<input type="checkbox"/>	<input type="checkbox"/>

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Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:



is your amount of "YES" accumulated.

Mongolia scored 43 times "YES" on 49 questions related to International Labour Standards

If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.

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01/13 Work & Wages

Regulations on work and wages:

Minimum Wage Law, 2011

Mongolian Labour Code, 1999

Minimum Wage

Minimum wage is regulated under the Labour Code and the Law on Minimum Wage. Minimum wage is the wage payable to a worker executing simple work or a job that does not require specified qualifications and special skills.

The Minimum wage should not be lower than the minimum level of living standards. In fixing or adjusting the minimum wage, the following factors must be taken into account: cost of living, the general level of (average) wages in the country, changes in real incomes of the population, the amount of social insurance and welfare benefits, economic growth, levels of productivity and the employment situation.

Minimum wage is fixed by the National Tripartite Committee on Labour and Social Consensus which comprises the representatives from government and social partners (workers and employers). The National Tripartite Committee exercises the following full powers concerning fixture of minimum wage:

- issuing an order to fix or adjust minimum wage;
- Collecting and analyzing information concerning minimum wage;
- Issuing a methodology and guidelines to fix and ensure implementation of minimum wage; and
- maintain a professional research team specialized in labour productivity and wage for supporting the work to fix minimum wage;

Minimum wage can be fixed at higher level than that fixed by the National Tripartite Committee on Labour and Social Consensus upon agreement between worker and employer representative organizations through a sectoral or inter-sectoral agreement.

National Tripartite Committee on Labour and Social Consensus must fix a minimum wage at least twice a year taking into account factors specified above and which can be renewed/adjusted if either of the parties or parties that are represented in National Tripartite Committee proposes to fix or adjust minimum wage. In emergency situations such as economic crisis, natural calamity (force majeure) or state of emergency, government can propose to retain the minimum wage rate for certain period of time in the public interest or to lower temporarily where other types of social protection measures can be used in complement.

Source: §2-7 of the Minimum Wage Law 2011; §48 of the Mongolian Labour Code, 1999

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Regular Pay

Under the Labour Code, a salary consists of basic wages, additional pay, extra pay, awards and bonuses.

Salary can be determined on a piecework basis, on hourly basis, or in other forms and paid according to the work results. Male and female employees performing the same work must receive the same salary. Higher salary may be paid for work requiring specialization, knowledge, or a profession, as well as for one with special conditions. If the failure to fulfil the production norm is not the employee's fault, the employee will be paid remuneration according to the job performed and reimbursed the difference between the basic salary and such remuneration. However, if the drop in production is because of worker's fault, he/she is paid remuneration according to the job performed.

In addition to the basic salary, an additional pay can be paid to an employee based on work performance. This is determined in an amount through the collective agreement. Similarly, an extra pay according to an employee's professional level, labour conditions and other extra pay is determined and paid by collective agreement, based on the job description.

Workers must be paid salary in monetary form at least bimonthly on fixed dates, on an hourly, daily or weekly calculation basis. Advance may be given to an employee at his or her request.

If employee's actions have led to a loss for the employer, deductions can be made from his salary provided that such deduction does not exceed his/her average salary for one month. Deductions in other cases are provided in the legislation. The total of deductions from an employee's monthly salary cannot exceed 20% of such salary (excluding personal income tax) except in the case of child maintenance payments. In the event of multiple deduction claims, the aggregate amount of such deductions cannot exceed 50% of the employee's monthly salary.

If the employee disagrees with the employer's decision to make a deduction from his salary, he can make a complaint to the labour dispute settlement commission. Lastly, if an employer has made a wrong deduction from an employee's salary, the employee can file a complaint for reimbursement of such deduction with the labour dispute settlement commission.

Source: §47, 49-51, 60, 61, and 63 of the Mongolian Labour Code, 1999

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02/13 Compensation

Regulations on Compensation:

Mongolian Labour Code, 1999

Overtime Compensation

Working hours are regulated under the Labour Code. The normal working hours are eight hours a day and forty hours a week. Labour Code allows for averaging and aggregation of hours if the nature of work or the manufacturing process makes it impossible to follow daily working hours.

Working hours are reduced in the following cases:

- a) For hazardous and obnoxious workplaces, based on the recommendation of a labour inspection authority;
- b) For any employee, pursuant to the decision of a medical labour commission;
- c) For workers attending professional and retraining courses;
- d) For disabled and midgets depending on the nature of their work and considering their opinion; and
- e) for pregnant and breastfeeding workers, based on their medical needs.

Working in excess of daily hour limit (8 hours) is considered overtime work. Making workers work overtime is prohibited unless agreed in an employment contract or collective agreement. Overtime is allowed under the Labour Code in following exceptional circumstances:

- (a) to perform work necessary for the defense of the country, or to protect human life or health;
- (b) to prevent from or taking immediate remedial actions with respect to the consequences of natural disaster, public disturbance or industrial accident;
- (c) to remedy disruption of water, electricity or heating supply, transportation or communication facilities;
or
- (d) To perform unforeseen works which are needed to be performed urgently to prevent disruption of the normal functioning of a business entity or organization, its branch or unit.

Labour Code prohibits an employer from compelling an employee to work two consecutive work shifts. No other limits on the amount of overtime could be identified. Labour Code requires time-off in lieu of overtime work. If time-off is not given, worker must be paid 150% of his normal wages for those hours of work. However, a collective agreement or employment contract may prescribe a higher overtime rate. Lastly, an employer may elect to give employee days off in lieu for overtime worked, instead of paying the overtime penalty rate.

Source: §53, 71, 73, 74, and 107 of the Mongolian Labour Code, 1999

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Night Work Compensation

Labour Code defines night work as the work done between 22:00 and 06:00. Labour Code requires additional pay for those workers engaged in night work, based on employee's basic compensation. There is also provision for a time-off if additional pay is not provided. The additional pay rate for those working night hours is determined under the employment contract or the collective agreement.

An employer may not require a pregnant worker, a mother with a child under 08 years of age, or a single parent (mother or father) under 16 years of age to work at night hours without taking employee's prior consent.

Source: §50, 54, 72, and 102 of the Mongolian Labour Code, 1999

Compensatory Holidays / Rest Days

Working on weekly rest days and public holidays is generally prohibited under the Labour Code. Labour Code allows working on weekly rest days and public holidays in the following cases:

- (a) to perform work necessary for the defense of the country, or to protect human life or health;
- (b) to prevent from or taking immediate remedial actions with respect to the consequences of natural disaster, public disturbance or industrial accident;
- (c) to remedy disruption of water, electricity or heating supply, transportation or communication facilities;
- (d) to perform unforeseen works which are needed to be performed urgently to prevent disruption of the normal functioning of a business entity or organization, its branch or unit; or
- (e) continuous manufacturing process, provision of public services, urgent repair work, loading and unloading works.

In such cases, workers are entitled to a time-off. If the time-off is not provided, worker must be paid 150% of his normal wages for those hours of work. Other than the above referred cases, worker and employer may agree working on public holidays and weekly rest days. In such case, another day of rest may be provided to the worker or added to the annual leave. It is prohibited to require a minor employee to work on weekends.

Source: §53, 74, 78, and 110 of the Mongolian Labour Code, 1999

Weekend/Public Holiday Work Compensation

Labour Code allows for a time-off in cases where a worker has to work on weekly rest day or a public holiday. If compensatory day-off is not provided, worker must be paid 150% of his normal wages for work done on a weekly rest day. In the case of public holiday, worker is eligible for compensation equivalent to 200% of the normal hourly wage rate.

Source: §52, 53, 74, and 78 of the Mongolian Labour Code, 1999

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03/13 Annual Leave & Holidays

Regulation on Annual Leave and Holidays:

Mongolian Labour Code, 1999

Paid Vacation/ Annual Leave

Annual leave or paid vacation is regulated under the Labour Code. Annual leave is divided into basic and additional leave. Additional leave is dependent on the length of service with the employer. Basic annual leave is 15 working days. Basic annual leave for minors and those engaged in difficult working conditions is 20 working days. Additional leave starts from 6th year of service with the employer. Additional annual leave is as follows:

- (i) 3 working days for 6-10 years of employment;
- (ii) 5 working days for 11-15 years of employment;
- (iii) 7 working days for 16-20 years of employment;
- (iv) 9 working days for 21-25 years of employment;
- (v) 11 working days for 26-31 years of employment; and
- (vi) 14 working days for more than 32 years of employment.

Workers working under obnoxious working conditions are also entitled to additional leave days as set by collective agreement, which are as follows:

- (i) 5 working days for 6-10 years of employment;
- (ii) 7 working days for 11-15 years of employment;
- (iii) 9 working days for 16-20 years of employment;
- (iv) 12 working days for 21-25 years of employment;
- (v) 15 working days for 26-31 years of employment; and
- (vi) 18 working days for more than 32 years of employment.

Workers are entitled to their regular pay during the vacation period. The amount of the regular vacation payment is determined on the basis of the employee's average salary for the respective year. Matters of payment during leave are governed by internal labour regulations, collective agreement and employment contract. An employee is allowed take his or her annual vacation in separate parts during the year at his or her request and the employer is entitled to entertain such a request.

The Labour Code does not contemplate work during annual leave, beyond providing that where an employee has not taken his or her annual vacation due to an unavoidable work need, he is paid a monetary remuneration instead. The procedure of paying such compensation is governed by a collective agreement or employer's decision.

Source: §55, 79 & 80 of the Mongolian Labour Code, 1999

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Pay on Public Holidays

The Labour Code provides for the following public holidays. Public holidays are 14 in number. These are New Year's Day (January 01), Lunar New Year or Tsagaan Sar/White Moon (first three days); International Women's Day (March 08); Children's Day (June 01); National Naadam holiday/Anniversary of the Mongolian People's Revolution (July 11-15); Day of the Proclamation of the People's Republic (November 26); Genghis Khan's Birthday (First day of the first winter month of the year); and Independence Day (December 29).

Public holidays are fully paid days. Workers engaged on public holidays are entitled to compensatory rest day. In case the time-off is not provided, workers are entitled to 200% of the normal wage rate.

Source: §52 & 76 of the Mongolian Labour Code, 1999

Weekly Rest Days

Labour Code provides for two days as weekly rest days. These are Saturday and Sunday. If an employee is not able to rest on Saturday and Sunday due to the special nature of his work, he is given 2 consecutive rest days on other days of the week.

If a public holiday falls close to a weekly day of rest, the working days and days of rest can be adjusted by a Government decision.

Source: §77 of the Mongolian Labour Code, 1999

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04/13 Employment Security

Regulations on Employment Security:

Mongolian Labour Code, 1999

Written Employment Particulars

Labour Code regulates the employment contracts. The following basic terms are set forth in an employment contract:

- job title or position name;
- job duties specified in the position description;
- amount of basic or position salary;
- Labour/working conditions.

Employment contract must be concluded in writing and a copy be provided to the employee. An employer may not require a worker to perform work until the agreement has been concluded in writing. An employment contract is effective from the date of its signing by the parties. An employer may not require a worker to perform work which is not specified in the employment contract (except in cases specified under the Labour Code). An employment contract is deemed concluded only once the basic conditions specified above have been agreed upon. An employment contract must be in conformity with the relevant legislation and collective agreements. If the provisions of employment contract are less favourable than those provided under the labour law or collective agreements, such provisions are considered null and void. The employer is prohibited from unilaterally modifying the contract and its provisions.

A contract must be concluded in writing. The term of a contract can be up to 5 years and must specify in detail the term of the contract, the final result of the work to be performed by the employee, the duties of the employee to the employer, procedure for evaluation of performance of the contract, description of any assets to be given under the employee's responsibility, rules of their possession, use and disposition, remuneration to be paid to the employee, employee benefits, provision of supplies, privileges, results achieved, share of profit to be paid to the employee, and employee's liability. If, upon evaluation of the contract it is determined that the employee has adequately performed his or her duties, the contract may be extended.

Lastly, a determination that any provision of an employment agreement is invalid cannot affect the validity of miscellaneous provisions of an employment agreement.

Source: §21-30 of the Mongolian Labour Code, 1999

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Fixed Term Contracts

An employment agreement may be concluded for a specified/fixed or an indefinite term. Employment contract may also be concluded for replacing an employee who is on leave, for seasonal or temporary jobs, and for the probation or training term set forth by the employer in its internal regulations.

As said above, employment contract may be concluded for a fixed/specified term. The initial length of a fixed term contract is 5 years. If the evaluation at the end of the term determines that employee has adequately performed his duties, the contract term may be extended. If an employee continues to perform work after the expiration of a fixed term contract, the contract is considered as extended for the initial term.

No provisions were identified within the laws which stipulate the maximum number for renewals and the maximum cumulative length (including all the renewals) for such specified term agreements.

Source: §23 & 25 of the Mongolian Labour Code, 1999

Probation Period

The duration of the probationary period is set forth by the employer in the internal labour regulations. It cannot however exceed 6 months.

No other provisions on probation period could be identified within the law.

Source: §23 of the Mongolian Labour Code, 1999

Notice Requirement

An employment agreement may be terminated at the employee's initiative or at the employer's initiative. A contract of employment may be terminated on the following grounds: mutual agreement between the parties; death of either party; expiry of the contract term; on the order of an authority under law; reinstatement of another employee to previous job after being wrongly dismissed; called to active military service; court judgment awarding punishment to the worker thus preventing him from performing the job duties; and any other cases as provided under legislation, collective agreement or employment contract.

A worker may terminate an employment contract by serving 30-day notice. For valid reason or by mutual agreement, a contract of employment may be terminated prior to the 30-day notice requirement. The required notice period varies between 30-45 days depending on the scope of termination. The required notice is 30 days in the case of economic redundancy or in cases where employer fails to meet the job requirements due to lack of qualifications and skill or health reasons. A 45-day contract termination notice is required to be given to the employee representatives in cases of termination of employment of all workers.

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In the following cases, no notice is required: on attaining the pensionable age of 60 years; repeated violation of disciplinary rules or commission of one serious breach; loss of trust on employee having financial responsibilities; election or appointment of worker to another salaried work; and on the basis of grounds set forth in the contract.

Other than above referred grounds, an employer may terminate the employment contract if the employer finds that employee did not work adequately as required under the contract; if the worker with financial authority concludes a simultaneous contract with another employer; employer has transferred the right of ownership to another person; or if it is established that employee has squandered assets or if he has exceeded authority afforded by the employer.

In such case of termination, the employer must notify the employee at least two months prior to such termination and pay an allowance in the amount equal to at least his or her average salary for a three-month period.

Source: §37-41 of the Mongolian Labour Code, 1999

Severance Pay

Severance pay is regulated under the Labour Code. It is equal to one month's average salary irrespective of the length of service. Severance pay is provided in the following cases:

- the employee has been called to active duty in the army;
- the employer's business entity (or a branch or unit) has been dissolved, or the job or position within it has been discontinued or the number of employees has been reduced;
- the employee fails to meet the job's requirements due to the lack of professional qualifications or skill, or health reason; and
- the employee has reached 60 years of age and is eligible to receive a pension.

An employee dismissed for conduct-related reasons is not entitled to severance pay.

In the case of a mass redundancy of employees, an employer must agree on the amount of the severance pay to be paid through negotiations with the employee representatives.

No provisions could be identified within the law which mandate increase in the severance pay based on the period of service by the employee

Source: §42 of the Mongolian Labour Code, 1999

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05/13 Family Responsibilities

Regulations on family responsibilities:

Mongolian Labour Code, 1999

Paternity Leave

No provisions on paternity leave could be identified within the law.

Parental Leave

Parental leave is regulated under the Labour Code and is referred to as “child care leave”. An employer may grant such child care leave to a mother who has used all her maternity leave and annual leave and has a child under three years of age. Child care leave can also be requested by fathers.

Employment of a worker is secure during child care leave. Employer is required to engage the worker in prior work if such request is submitted prior to or on expiration of child care leave. In case the work or position has been eliminated or the number of staff has been reduced, the employer is required to provide the worker with another job or position. This provision is equally applicable to parents adopting a child under three years of age.

Provisions relating to the extent of this child care leave, whether it is paid or unpaid and the duration could not be identified within the existing law, furthermore neither could any qualifying conditions be identified.

Women and single fathers adopting a newborn child are granted the same leave as a mother who gives birth to a child, until the child reaches the age of 60 days.

Source: §105 & 106 of the Mongolian Labour Code, 1999

Flexible Work Option for Parents / Work-Life Balance

The employer must not require a mother with a child under 8 years of age, or a single mother or father of a child less than 16 years of age, to work overtime.

No other provisions were identified within the law.

Source: §102 of the Mongolian Labour Code, 1999

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06/13 Maternity & Work

Regulations on maternity and work:

Mongolian Law on Pensions and Benefits Paid from Social Insurance Fund, 1994

Mongolian Labour Code, 1999

Order of the Minister for Health and Social Welfare establishing the lists of the jobs prohibited to women and minors 1999

Free Medical Care

Persons employed on a contractual basis by business entities, organizations or individuals, and government servants are subject to compulsory insurance, unless otherwise provided by law. Self-employed may be affiliated voluntarily to the social insurance. The Social Insurance includes health insurance and free health care is provided under it.

Source: §3, 4, & 10 of the Mongolian Law on Pensions and Benefits Paid from Social Insurance Fund, 1994

No Harmful Work

Pregnant women, women with children under 8 years of age, and single parents with children under 16 years of age may only work on night shifts and overtime with their prior consent. However, work on rest days is not prohibited for pregnant workers and no time off is provided under the law for medical examinations either.

Pregnant women or nursing mothers are entitled to work reduced hours on the basis of a medical certificate. Furthermore, a pregnant woman or a breastfeeding mother is transferred to another job that is not detrimental to their health if relevant medical authorities determine such action as appropriate.

Although the specific professions in which pregnant women are prohibited from being employed are not mentioned within the law, there are general provisions which restrict women from lifting and carrying weights heavier than those approved by government regulations. Moreover, the Order of the Minister for Health and Social Welfare establishing the lists of the jobs prohibited to women and minors law prescribes an exhaustive list of professions considered hazardous.

Source: §101, 102, 107 & 108 of the Mongolian Labour Code, 1999; Order of the Minister for Health and Social Welfare establishing the lists of the jobs prohibited to women and minors 1999

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Maternity Leave

Maternity leave is regulated under the Labour Code. Women are entitled to 120 days of leave (60 days prenatal and 60 days postnatal leave).

The maternity leave is also granted to a woman who has delivered a stillborn child or has had pregnancy interrupted by medical procedure after the 196th day of pregnancy and to a woman who has delivered a child before the 196th day of pregnancy who is able to live.

If a woman has delivered a stillborn child, or has had pregnancy interrupted by medical procedure before the 196th day of pregnancy, she is entitled to sick leave under regular procedure.

Source: §104 of the Mongolian Labour Code, 1999

Income

An insured female employee or a civil servant who gives birth prematurely after at least 196 days of pregnancy, or who has a miscarriage or an abortion, or who gives birth before 196 days of pregnancy to a child who survives, is entitled to maternity benefits.

Mothers, who have paid contributions for social insurance for at least than 12 months, (of which six months must be prior to the maternity leave), are eligible for a maternity benefit. Mothers satisfying the contribution requirement are eligible for maternity benefit in the following cases: those who give birth prematurely before the expiry of 196 days of pregnancy or have an abortion or interruption of pregnancy through medical intervention in addition to those who give birth to a surviving baby able to survive although it was born prior to the expiry of 196 days. Working mothers, who give birth while they were on a child care leave, are also entitled to a maternity benefit.

Maternity benefits are calculated on the basis of working days and a worker is eligible for the benefit during the full term of maternity leave (120 days/4months). Maternity benefits are calculated at a rate of 100 per cent of the average salary over the preceding 12 months, or comparable income. The voluntarily insured women workers receive 70 per cent of their average salary over the preceding 12 months as maternity benefit.

Source: §19(2) of the Mongolian Law on Pensions and Benefits Paid from Social Insurance Fund, 1994

Protection from Dismissals

An employer may not dismiss a pregnant woman or a single parent with a child under 3 years of age except in the event of liquidation of the employer's business entity or organization.

Source: §100 of the Mongolian Labour Code, 1999

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Right to Return to Same Position

Labour Code stipulates that the employee must retain a job or position where the employee is on pregnancy, maternity or child care leave. Furthermore, after expiration of child care leave, the employee is entitled to resume to previous work or position. If employee's job or position has been eliminated due to business reasons, the employer must assign her to another job or position.

Source: §35 & 106 of the Mongolian Labour Code, 1999

Nursing/Breastfeeding Breaks

Nursing breaks are guaranteed under the Labour Code. Women workers are entitled to two hours of additional break a day for childcare or feeding if the child is under six months of age or twins under one year of age. The duration of additional (nursing) break is one hour when child is aged between 6 to 12 months. Nursing break is one hour when a child is over one year however in need of special care as determined by relevant medical authorities. Breaks for breastfeeding and childcare are treated as working hours.

A nursing mother is transferred to another job that is not detrimental to her and her child's health on recommendation of relevant medical authorities.

Source: §103 & 107 of the Mongolian Labour Code, 1999

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07/13 Health & Safety

Regulations on health and work:

Law on Occupational Safety and Health 2008

Law on State Inspections 2003

Mongolian Labour Code, 1999

Employer Cares

Employers are required to maintain safe and healthy working conditions. The Law on Occupational Safety and Health has detailed instructions for employers with regard to use of machinery and equipment, machineries for lifting, delivering and transporting as well as fire safety requirements. Employers are required to arrange free of cost preliminary and periodic medical checkups (related to their work performance) for all workers.

Employers' responsibilities are enumerated in the Law on Occupational Safety and Health and some of those include: provision and creation of safe and healthy working conditions; stopping work in the face of imminent danger; conduct risk evaluation for eliminating and controlling possible dangers and accidents at workplace; evaluation of working conditions; and provide training on safe operations and prohibiting employees from work who did not attend training. Workers also have a right to work at safe and healthy workplaces, have medical insurance to cover industrial accidents, and suspend work in the face of imminent danger.

Source: §9-14, 18, 28 of the Law on Occupational Safety and Health 2008

Free Protection

Law on Occupational Safety and Health requires employers to provide workers (at no cost) personal protective equipment and special garments, which fit their working conditions and work performance. Employer has to bear all expenses related to testing, purchasing, storing, cleaning, repairing and disinfecting of personal protective equipment.

Source: §15 of the Law on Occupational Safety and Health 2008

Training

Employers are required to arrange health and safety training for newly employed workers, workers who are being transferred from one job or workplace to another, and workers who work at places under toxic and dangerous industrial impact or similar conditions.

Employers are required to conduct training on occupational safety and health at least twice a year and must test their knowledge by testing methods.

Source: §17 & 28 of the Law on Occupational Safety and Health 2008

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Labour Inspection System

Labour Inspection system is provided under the Mongolian labour and occupational safety & health laws. There is a separate Law on State Inspections. The Law on State Inspection defines the rights and responsibilities of state inspectors, the professional labour inspection body, and its officials. State Inspectors exercise the following powers: supervise the implementation of the special rules established by the law or by the state authorised organizations, and to ensure the rules are adhered to; have free access to the establishments to be inspected; involve relevant professionals in the inspection based on agreement with the concerned organizations and ensure that the professional organization has the expertise to conduct laboratory analyses and verification; have free access to information and other relevant documents to be provided by the organizations for the purpose of inspection work; obtain, free of charge, a sample of products for the purpose of analysis; completely or partially stop any work, production, or services considered to be directly, indirectly, or potentially harmful to human life, health and the environment until the dangers are eliminated, if there is failure to implement these decisions, completely stop the concerned production and services, unless otherwise stipulated by law; stop any breaches and shortcomings identified in the course of inspection, and demand that the concerned organization implement tasks assigned to them.

The Law on Administrative Supervision and the General Statute of the State Professional Inspection Agency (SPIA) regulate certain powers of State Inspectors.

Source: §19, 22, 23, and 32 of the Law on Occupational Safety and Health 2008; Law on State Inspections 2003; §139-140 of the Labour Code 1999

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08/13 Sick Leave & Employment Injury Benefits

Regulations on sick leave & employment injury benefits:

Mongolian Law on Pensions and Benefits Paid from Social Insurance Fund, 1994

Citizens' Health Insurance Law 2003

Mongolian Labour Code, 1999

Law on Pensions and Benefits Paid by the Social Insurance Fund against Industrial Accidents and Occupational Diseases, 1994

Income

The sick leave is compensated from the Government-run social insurance program, except for the first five days of the leave. Leave is provided as determined by the designated medical commission at the local hospital. The compensation rate is determined by the social security legislation and depends on the number of years the employee has worked. In general, an employee is entitled to a one-time pro-rated medical leave allowance as follows:

Between 3 months - 5 years ---50% of their monthly salary.

Between 5 yrs-14 years. ----55% of their salary

More than 14 years. -----75% of their salary

The first five days of the leave are to be paid by the employer. In general, the allowance is paid until the illness is over or the sick leave is classified as "disability leave." The length of the sick leave is again determined by the designated medical commission at the local hospital, but cannot exceed 66 days. In the case of tuberculosis and cancer, benefits can be provided for 132 days. If the sick leave is longer than 66/132 days, it must be treated as "disability leave"

Source: §17-19 of the Mongolian Law on Pensions and Benefits Paid from Social Insurance Fund, 1994

Free Medical Care

Under the Citizens' health insurance scheme, both the inpatient and outpatient health care services are provided to insured persons. Law on Citizens' Health Insurance requires compulsory insurance for all people.

Source: §6-9 & 12 of the Citizens' Health Insurance Law 2003

Job Security

Employment of a worker is secure during the term of sick leave. However, the length of sick leave ranges between 66 and 132 days depending on the type of illness.

Source: §19 of the Mongolian Law on Pensions and Benefits Paid from Social Insurance Fund, 1994; §35.1.3 of the Mongolian Labour Code, 1999

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Disability/Work Injury Benefit

Under the law, there is provision for benefits in the case of industrial accidents and occupational diseases if the accident occurred at workplace or in discharge of duties elsewhere, before or after work and on the way to and from work. The Social Insurance Fund against Industrial Accidents and Occupational Diseases provides the following benefits to the insured persons: Disability pension; Dependent's pension; Temporary disability benefit; and Rehabilitation costs.

Work injuries may be classified on the basis of their consequences as those resulting in: (i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to death of a worker.

An insured person who is incapacitated temporarily or permanently due to an industrial accident or occupational disease is eligible for a disability pension. The percentage and duration of disability pension is determined by the medical labour accreditation commission. Disability pension depends on the percentage loss of work capacity above 10%. The disability pension for a worker who has lost work capacity of at least 30% cannot be less than 75% of the national minimum wage. If the loss in work capacity is under 30%, insured person has the right to receive disability benefit as a lump sum payment for 6 months or for period determined by the medical commission.

Temporary disability benefit is 100% of the average wage regardless of the length of service and is granted for each day of incapacity for work. Temporary disability benefit is paid until recovery or declaration of permanent disability (and grant of disability pension). The maximum duration of disability benefit cannot exceed 190 days in a 12-month period.

In the event of insured worker's death, dependent family members are eligible for dependent's pension. The rate of dependent's pension is determined as a percentage of insured worker's average wage and depends on the number of dependents. It is 100% for three or more dependents; 75% for two dependents; and 50% for one dependent. The dependent's pension is payable for disabled dependents until death and for children under 19 years.

If an insured person has lost at least 30% of the work capacity due to an industrial accident or occupational disease, he is eligible for a rehabilitation payment for the purpose of prosthetic appliances and orthopedics, and mineral water therapy in a sanatorium.

Source: §3-16 of the Law on Pensions and Benefits Paid by the Social Insurance Fund against Industrial Accidents and Occupational Diseases, 1994

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09/13 Social Security

Regulations on social security:

State Law on Pension and Benefits Paid from Social Insurance Funds, 1994

Law on Unemployment Benefits Paid from Social Insurance Funds, 1994

Pension Rights

The State Law on Pension and Benefits from Social Insurance regulates old age pensions. The pensionable age for men is 60 years with at least 20 years of contributions. The pensionable age for women workers is 55 years. A woman worker who has four or more children of her own or adopted them (under the age of 3) and raised them until the age of 6 years and who have paid insurance premiums for at least 20 years are eligible for early pension at the age 50. The pensionable age can be reduced to 55 years (subject to various conditions) for workers who worked underground, hazardous or difficult working conditions.

Retirement pensions are granted at 45 percent of the average monthly wage or similar income. For each extra year above 20 years for which pension insurance premiums were paid, a supplement is also paid in the amount of 1.5 per cent of the salary for which the retirement pension is granted. A pension of an insured that was granted while he or she was receiving a disability benefit will be increased by 1 per cent for each year of complete loss of ability to work. The minimum level of retirement pension cannot be less than the minimum wage fixed by the Government.

Source: §3-6 & 22-28 of the State Law on Pension and Benefits Paid from Social Insurance Funds, 1994

Dependents' / Survivors' Benefit

If a bread-winner dies as a result of normal disease or domestic injury, the following family members who lack the ability to work and who were dependent are entitled to a survivor's pension:

- 1) kindred or adopted child under the age of 16 (19 years for full time students);
- 2) grandchildren and kindred junior brothers and sisters without a person legally assigned for their care;
- 3) children, grandchildren, kindred sisters and brothers who are invalids from the time of their birth or became invalids under the age of 16 and who are dependent on the bread-winner;
- 4) men who have reached 60 and women who have reached 50, or invalid parents or spouse, grandparents, and kindred sisters and brothers without any other person legally assigned for their care;
- 5) unemployed parents of either spouse, regardless of their age or ability to work who are taking care of children under the age of 8 or kindred junior sisters and brothers who do not have anyone legally assigned to take care of them.

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In case of the death of a bread-winner who has paid retirement pension premiums for a total period of not less than 5 years and in which the premium for the last year was paid regularly, family members without the ability to work are entitled to a survivor's pension in the proportion to the total period of payment of premiums.

Citizens who are invalids and who have lost their bread-winner and who are not entitled to other types of pension are entitled to a survivor's pension for the complete period of loss of ability to work.

The survivor's pension is calculated in the following proportion to the percentage of the insured's wages and depends on the number of dependents without working ability:

The survivors' benefit is 100% for three or more family members without working ability; 75% for two family members and 50% of the applicable benefit for one family member without working ability.

In the case of the death of a bread-winner who was receiving an invalid's pension, the survivor's pension is increased by 1.0% for each year of complete loss of ability to work.

The survivor's pension is paid to children from the day of death until the age of 16 (19 years for students), to invalids for the period of loss of ability to work, and to citizens who have reached the age of retirement until the month following the death.

Source: §12-16 of the State Law on Pension and Benefits Paid from Social Insurance Funds, 1994

Unemployment Benefits

Unemployment Benefits are regulated under the Law on Unemployment Benefits Paid from Social Insurance Funds. A worker must have paid insurance contributions for at least 24 months (including last 9 consecutive months) before becoming unemployed. For receiving benefits again, a worker must have paid unemployment insurance fees for 12 months.

Unemployment benefit is calculated as a percentage of average wage of last three months and depends on the length of service as follows: 45% of the average wage for service under 5 years of service; 50% of the average wage for 5-10 years of service; 60% of the average wage for 10-15 years of service; and 70% of the average wage for 15 or more years of service. The minimum rate of unemployment benefit cannot be less than 75% of the minimum wage determined by the national tripartite committee on labour and social consensus. The unemployment benefits are payable for a period of 76 working days. Unemployment benefits are paid twice a month.

Unemployment benefits may be suspended in the following cases: if the worker twice refused to accept a reasonable offer; missed the temporary wage jobs organized by the employer or employment promotion unit; did not participate in vocational training paid and organized by insurance organizations and if the court decision regarding worker imprisonment becomes effective. If the unemployment benefit is not used by the workers of a specific enterprise for five consecutive years, the insurance contribution can be reduced by 10%.

Source: §2-12 of the Law on Unemployment Benefits Paid from Social Insurance Funds, 1994

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Invalidity Benefits

Invalidity Benefits are regulated under the State Law on Pension and Benefits Paid from Social Insurance Funds. An insured person who lost at least 50% of his/her working capacity permanently or for a long duration due to non-occupational disease or injury is entitled to invalidity benefit provided that he/she has paid contributions for at least 20 years or for three years during the last five years immediately preceding the commencement of invalidity. If a person does not meet above contribution requirements, he/she is eligible for reduced invalidity pension in proportion to paid contributions provided that he/she has paid contributions for at least three years.

Invalidity may be classified as total or partial. The percentage loss in the working capacity and the length of disability is determined by the Medical Labour Accreditation Commission. The rate of invalidity benefit is similar to the old age pension. Retirement pensions are granted at 45 percent of the average monthly wage or similar income. For each extra year above 20 years for which pension insurance premiums were paid, a supplement is also paid in the amount of 1.5 per cent of the salary for which the retirement pension is granted.

An insured person who has lost less than 50% of the working capacity is paid invalidity benefit in proportion to the above referred rate. The minimum invalidity pension is equal to minimum retirement pension. The invalidity pension is paid from the day of invalidity to the day of rehabilitation or in the month following the death of a worker.

Source: §07-11 of the State Law on Pension and Benefits Paid from Social Insurance Funds, 1994

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10/13 Fair Treatment

Regulations on fair treatment:

Constitution of Mongolia 1992

Mongolian Law on Promotion of Gender Equality 2011

Order of the Minister for Health and Social Welfare establishing the lists of the jobs prohibited to women and minors (No. A/204 of 1999)

Mongolian Labour Code, 1999

Equal Pay

In accordance with the Labour Code, male and female employees performing the same work must receive the same salary.

An employer has the responsibility to prevent gender discrimination in employment policies and labour relations. Employer is further required to ensure gender equality at a workplace by carrying out monitoring and evaluation of legal provisions on equal pay for equal work and equal working conditions and take actions to eliminate identified breaches.

Source: §49 of the Mongolian Labour Code, 1999; §11 of the Mongolian Law on Promotion of Gender Equality 2011

Sexual Harassment

Under the Gender Equality Law, “sexual harassment” is defined as an unwelcome sexual advance made in verbal, physical and/or other forms, intimidation, threat and/or other forms of coercion that makes sexual intercourse an unavoidable option for the victim or that creates an unbearable hostile environment and/or causes damage in terms of the person’s employment, professional, economic, psychological and/or any other form of well-being. Gender based violence and sexual harassment are seen as constituting gender discrimination, which is prohibited in employment and labour relations.

In order to prevent and keep the workplace free of sexual harassment and to maintain zero tolerance of such harassment, an employer is required to take the following measures:

- Incorporate in organization’s internal procedures specific norms for prevention of sexual harassment in a workplace and the redress of such complaints;
- Design and conduct a training and retraining program geared toward creating a working environment free from sexual harassment, and report on its impact in a transparent manner.

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An employee has the following rights and duties in promoting gender equality;

Rights:

- receive information and education and be trained on gender discrimination and sexual harassment;
- file a complaint and testify on one's own behalf or on behalf of a victim in a case of gender discrimination or sexual harassment;
- Inform the employer and/or the management of the acts violating legal provisions of the Labour Law of Mongolia and to demand accountability for the perpetrator(s) and redress of the damage.

Duties:

- refrain from sexually harassing a fellow employee, client and/or a customer;
- Duly observe norms effected for the purpose of preventing gender discrimination and sexual harassment.

Source: §4, 6, and 11 of the Mongolian Law on Promotion of Gender Equality 2011

Non-Discrimination

Under the Constitution of Mongolia, no person may be discriminated against on the basis of ethnic origin, language, race, age, sex [gender], social origin and status, property and assets, employment occupation and official position, religion and conscience, conviction and opinion, and education.

The Labour Code also stipulates that setting of limitations or privileges in labour relations based on nationality, race, sex, social origin or status, wealth, religion, or ideology is prohibited and an employer found to be involved in the offence of discrimination will be subject to a fine ranging from 5,000 to 100,000 togrogs.

As far as specific provisions with respect to gender discrimination are concerned, the term "gender discrimination" is defined as any action or inaction resulting in discrimination, exclusion or restriction based on sex or attributes of sex and marital status of men and women in political, economic, social, cultural, family and other spheres.

Men and women are guaranteed enjoyment of human rights and freedoms without any discrimination or restriction on the basis of the differences in terms of their age, sex, vocation or rank, views, marital status or education and gender discrimination will be prohibited in political, economic, social, cultural and family spheres.

Gender discrimination in employment and labour relations is prohibited. It is also prohibited to treat preferentially, to restrict or to dismiss an employee based on his/her sex, pregnancy, child care-taking roles, or family status. Collective bargaining agreements must include provisions for creation of opportunities for men and women to combine work and family, to bear and take care of children, to enjoy occupational safety, equal pay for equal work and to enjoy equal working conditions.

Source: §14 of the Constitution of Mongolia 1992; §07 & 141 of the Mongolian Labour Code, 1999; §4-6 & 11 of the Mongolian Law on Promotion of Gender Equality 2011

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Equal Choice of Profession

Under the Constitution of Mongolia, people are guaranteed the right to free choice of employment, to be provided with the enabling conditions for labor, to receive salary and remuneration, to rest and leisure, and to engage in private enterprise. No one shall be illegally forced to work. Furthermore, the citizens of Mongolia have a duty for to work, protect their health, raise and educate his/her children, as well as to protect the nature and environment.

Under the gender equality law, the principle of gender equality stipulates that men and women have opportunities and conditions to enjoy equal rights in political, economic, social, cultural, family and other relations, and to equally participate in social life and equally access the benefits of development and social wealth.

However, women are prohibited from doing jobs which are perceived dangerous for their health and a full list of the occupations prohibited for women are provided in the Order of the Minister for Health and Social Welfare establishing the lists of the jobs prohibited to women and minors (No. A/204 of 1999)

Source: §16 & 17 of the Constitution of Mongolia 1992; §5 & 11 of the Mongolian Law on Promotion of Gender Equality 2011; Order of the Minister for Health and Social Welfare establishing the lists of the jobs prohibited to women and minors (No. A/204 of 1999)

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11/13 Minors & Youth

Regulations on minors and youth:

Mongolian Labour Code, 1999

Law on the Protection of the Rights of the Child 1996

Order of the Minister for Health and Social Welfare establishing the lists of the jobs prohibited to women and minors (No. A/204 of 1999)

Minimum Age for Employment

The minimum age for employment is 16 years and a person who has attained 16 years of age has the right to enter into an employment agreement. However, a person who has attained 15 years of age may enter into an employment agreement with the consent of his or her parents or guardians. Furthermore, a minor aged 14 years may enter into an employment agreement for the purpose of acquiring vocational training and work experience, but only with the consent of his or her parents or guardians and approval of the state central administrative body in charge of labour matters.

Source: §109 & 110 of the Mongolian Labour Code, 1999

Minimum Age for Hazardous Work

Under the Labour Code, an employer may not employ a minor in a job that can adversely affect his or her intellectual development or health. The minimum age for hazardous work is 18 years. It is prohibited to employ the child in any work that is likely to be harmful to the child's health and moral development. It is further prohibited to pay unjust wage or engage children in begging and illegally conduct profit making activities on their behalf.

A minor employee may be employed subject to the approval of the relevant medical authority after he or she undergoes a medical examination, and further biennium medical examinations are required until he or she attains 18 years of age. It is prohibited to require a minor employee to work overtime, on public holidays and weekends. In addition, minor employees cannot be employed in jobs with obnoxious labour conditions (means workplace conditions adverse impact of which is not possible to eliminate and those which do not meet the labour standards). Lastly, it is prohibited to require a minor employee to lift or carry loads that exceed weight limits established by the member of Government in charge of labour matters.

A full and exhaustive list of professions in which the minor may not be employed are set out in Order of the Minister for Health and Social Welfare establishing the lists of the jobs prohibited to women and minors (No. A/204 of 1999).

Under the Law on Education, the minimum age for compulsory education is 16 years.

Source: §109 & 110 of the Mongolian Labour Code, 1999; §6 of the Law on the Protection of the Rights of the Child 1996; Order of the Minister for Health and Social Welfare establishing the lists of the jobs prohibited to women and minors (No. A/204 of 1999)

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12/13 Forced Labour

Regulations on forced labour:

Constitution of Mongolia 1992

Mongolian Labour Code, 1999

Mongolian Criminal Code, 2002

Prohibition on Forced and Compulsory Labour

The Constitution of Mongolia guarantees that no one may be illegally forced to work.

According to the Labour Code, “forced labour” means job duties that are required to be performed by an employee with the view to enforce the labour discipline, to avenge for the participation in a strike, as well as for the expression of one’s opinion on the political, social and economic regime, or with the purpose of discriminating on the basis of social origin, ethnicity, race and religion, or those duties that are required despite the danger that arises to the employee’s life and health.

It is prohibited to illegally force someone to work, and an official who illegally forces an employee to work is subject to a fine of 5,000 to 30,000 togrogs, while a business entity or organization is subject to a fine of 100,000 to 250,000 togrogs

Under the Criminal code of Mongolia, illegally forcing a child to labour is punishable by a fine equal to 51 to 250 amounts of minimum wage or imprisonment for a term of up to 4 years.

Source: §16 of the Constitution of Mongolia 1992; §3, 7 & 141 of the Mongolian Labour Code, 1999; §21 of the Mongolian Criminal Code, 2002

Freedom to Change Jobs and Right to Quit

Mongolian law gives a worker freedom to change jobs and the right to quit. In accordance with the provisions of the Constitution as discussed earlier, the citizens of Mongolia have a right to free employment and no one can be illegally forced to work. A worker has the right to leave his or her workplace by serving a 30-day notice.

Source: §39 of the Mongolian Labour Code, 1999

Inhumane Working Conditions

Under the Law, the general daily working hour limit is 8 hours and the weekly limit is 40 hours. Unless otherwise agreed in the collective or employment agreement, assigning an employee to overtime work is prohibited, except in the certain cases specified under the law. Labour Code does not specify overtime limits.

Source: §70 & 74 of the Mongolian Labour Code, 1999

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13/13 Trade Union

Regulations on trade unions:

Constitution of Mongolia 1992

Mongolian Law on Trade Union Rights, 1991

Mongolian Labour Code, 1999

Freedom to Join and Form a Union

The Constitution guarantees the right to freedom of association in public organizations on the basis of social and personal interests and conviction. These organizations must uphold the public order and State security, and respect and enforce the law. Discrimination and persecution of a person for joining an association or for being their member is prohibited.

Citizens are entitled to join a trade union without a prior permission, solely on a voluntarily basis, without any discrimination whatsoever to exercise their right to work and defend their legitimate interests concerned. There is no compulsion to join or leave a trade union and the restriction of citizens' rights on the freedom to form or join trade unions or discrimination against them on the basis of their being a member or non-member of a union is prohibited.

Source: §16 of the Constitution of Mongolia 1992; §3 of the Mongolian Law on Trade Union Rights, 1991

Freedom of Collective Bargaining

Collective bargaining is regulated under the Labor Code. Trade unions have the right to negotiate with the employer to conclude collective agreements and monitor their implementation. Trade unions are further empowered to represent and defend the interests of their members at labour dispute settlement institutions.

Collective agreement is defined as an agreement between an employer and workers/trade union ensuring the right to employment and related legitimate interests of all employee on more favourable terms than those guaranteed under the law and provide for matters not specifically regulated by the Labour Code. Labour Code defines collective bargain as an agreement between employers and employee representatives at the national or regional level or sectoral level.

Employer or relevant state authority is required to provide all required information to employee representative enabling them to negotiate effectively. Parties to a collective agreement are required to exchange all information on monitoring the performance of a collective agreement. Any party may propose to negotiate or amend a collective agreement by informing the other party in writing.

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A collective agreement is applicable to all parties participating in negotiations. A collective agreement may be concluded for a period of one year or longer while collective bargain may be concluded for a period two years. A collective agreement or collective bargain is effective only once it has been registered with the relevant government authority within 10 days of its conclusion (Office of the Governor).

Source: §3 & 8-20 of the Mongolian Labour Code, 1999; §5 of the Mongolian Law on Trade Union Rights, 1991

Right to Strike

Under the Constitution, freedom of thought, opinion and expression, speech, press, and peaceful assembly are guaranteed.

Labour Code defines strike as “an action of employees whereby they voluntarily stop work, completely or partially for a definite period of time with the purpose of resolving a collective labour dispute”. Strikes are organized by employee representatives.

Employment of a worker is secure during a lawfully organized strike. An employee can participate in strikes voluntarily but cannot be compelled to participate in a strike, or to not participate in a strike, or to continue a strike, or to stop a strike, except as otherwise provided by law.

Employee representatives have the right to start strike in the following cases: if an employer fails to participate in the reconciliation procedure as provided in the law; if an employer fails to comply with a settlement reached with the participation of an intermediary; if an employer fails to fulfill their own decision based on acceptance of a recommendation of the labour arbitration court; and where even though the collective labour dispute was considered by the labour arbitration court, no decision was issued to accept its recommendation.

A decision to strike will be made at a meeting of the organization representing and protecting employees' rights and legitimate interests, or a general meeting of employees. A strike may be announced if a majority (more than a half) of participants attending the meeting approve the proposal to strike. The following matters are included in the decision to strike:

- the issue that has caused the strike;
- date and time of commencement of the strike, its proposed duration, and a preliminary estimate of the number of participants;
- the name(s) of the person(s) in charge of organizing and coordinating the strike, and the composition of the representatives of the employees who will participate in the settlement;
- List of steps to ensure the health and safety of people during the strike.

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A notice of intention to strike must be delivered to the employer at least five working days prior to commencement of strike. If an employer deems that the employees' demands are not acceptable, it may temporarily deny access to the workplace for employees participating in the strike (lockout). In order to prevent an employer from temporarily employing other employees at the workplace during a strike, representatives of the employees may temporarily deny access to the workplace (picket). Strikes are prohibited in organizations charged with the responsibility of state defence, national security and public order. Strikes are prohibited when a collective dispute is being settled or is being examined by a court or intermediary. If there is threat to human life and health, strikes can be postponed or suspended for 30-day period. For public utility services (water, heating, electricity, transportation, etc.), strikes may be postponed by government order for 14 days.

Source: §16 of the Constitution of Mongolia 1992; §3, 35, 116-124 of the Mongolian Labour Code, 1999

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01/13 Work & Wages

ILO Conventions on Work and Wages

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

Mongolia has not ratified any of the above Conventions.

Minimum wage

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups.

Regular Pay

Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

02/13 Compensation

ILO Conventions on Compensation

Compensation overtime: Convention 01 (1919); Night work: Convention 171 (1990)

Mongolia has not ratified both the Conventions 01 & 171.

Overtime Compensation

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, overtime pay rate should not be less than one and a quarter times (125%) the regular rate.

Night Work Compensation

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

Compensatory Holidays/Rest Days

If you have to work on a national/religious holiday or a weekly rest day, you should be entitled to compensation. Not necessarily in the same week, provided that the right to a paid compensation is not.

Weekend/Public Holiday work Compensation

If you have to work during the weekend, you should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the course of the following week. Similarly, if you have to work on a public holiday, you must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take your right to a holiday/ rest.

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03/13 Annual Leave & Holidays**ILO Conventions on weekly rest days and paid annual leave**

Convention 132 (1970) on Holidays with Pay Convention Conventions 14(1921), 47 (1935) and 106 (1957) for weekly rest days. In addition, for several industries, different Conventions apply.

Mongolia has not ratified any of the above mentioned Conventions.

Paid Vacation/Annual Leave

An employee is entitled to at least 21 consecutive paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

Pay on Public Holidays

You should be entitled to paid leave during national and officially recognized public holidays.

Weekly Rest Day

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7 day period, i.e., a week

04/13 Employment Security**ILO Conventions on employment termination**

Convention 158 (1982) on employment termination

Mongolia has not ratified the Convention 158.

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

Written Employment Particulars

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contracts

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

Probation Period

A reasonable probation period must be provided to a worker to learn new skills. A newly hired employee may be fired during probation period without any negative consequences.

Notice Requirement

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

Severance Pay

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

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05/13 Family Responsibilities

ILO Conventions on family responsibilities

Convention 156: Workers with Family Responsibilities Convention (1981)

Recommendation 165: Workers with Family Responsibilities (1981)

Mongolia has not ratified the Conventions 156 & 165.

Paternity Leave

This is for the new fathers around the time of child birth and is usually of shorter duration.

Parental Leave

The accompanying recommendation (No. 165) to ILO Convention on Family Responsibilities provides for parental leave as an option available to either parent to take long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance

Recommendation 165 asks for looking into measures for improving general working conditions through flexible work arrangements.

06/13 Maternity and Work

ILO Conventions on maternity and work

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

Mongolia has ratified the Convention 103 only.

Free medical care

During pregnancy and maternity leave, you should be entitled to medical and midwife care without any additional cost.

No harmful work

During pregnancy and while breastfeeding, you should be exempt from work that might bring harm to you or your baby.

Maternity leave

Your maternity leave should last at least 14 weeks.

Income

During maternity leave, your income should amount to at least two thirds of your preceding salary.

Protection from Dismissals

During pregnancy and maternity leave, you should be protected from dismissal or any other discriminatory treatment.

Right to return to same position

Workers have the right to return to same or equivalent position after availing maternity leave.

Breastfeeding/Nursing Breaks

After child birth and your rejoining your organization, you must be allowed paid nursing breaks for breastfeeding your child.

07/13 Health & Safety**ILO Conventions on Health and Safety**

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here. Labour Inspection Convention: 81 (1947)

Mongolia has ratified the Convention 155 only.

Employer cares

Your employer, in all fairness, should make sure that the work process is safe.

Free protection

Your employer should provide protective clothing and other necessary safety precautions for free.

Training

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

Labour Inspection System

You and your colleagues should receive training in all work related safety and health aspects and you should have been shown the emergency exits.

08/13 Sick Leave & Employment Injury Benefits**ILO Conventions on Sickness and Employment Injury**

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

Mongolia has not ratified the Conventions 102, 121 & 130.

Income/Paid Sick Leave

Your rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefit may not be paid during the first 3 days of your absence. Minimally you should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). You should be entitled to paid sick leave.

Medical Care

During illness, you should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

Job security

During the first 6 months of your illness, you should not be fired.

Disability/Work Injury Benefit

Whenever you are disabled due to an occupational disease or accident, you ought to receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

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09/13 Social Security

ILO Conventions on Social Security

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat higher standards have been set in subsequent Conventions

Employment Injury Benefits: Conventions 121 (1964),

Invalidity, Old age and survivors' benefits: Convention 128(1967)

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

Mongolia has not ratified the Conventions 102, 121, 128, 130 & 168.

Pension Rights

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If retirement age is fixed above 65 years, it should give "due regard to the working ability of elderly persons" and "demographic, economic and social criteria, which shall be demonstrated statistically". Pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

Dependent's/Survivors' Benefit

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

Unemployment Benefit

For a limited period of time, the unemployed has a right to unemployment benefit set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity Benefits

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

10/13 Fair Treatment

ILO Conventions on Fair Treatment

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

Mongolia has ratified both the Conventions 100 & 111.

Equal Pay

At workplaces equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and the clear matching of pay and position should be in place and to help prevent wage discrimination.

Sexual Harassment

Not clearly provided in ILO Conventions. However, sexual intimidation/harassment is gender discrimination.

Non-Discrimination

Your employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

Equal Choice of Profession

People have the right to work and there can't be occupational segregation on the basis of gender.

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11/13 Minors & Youth

ILO Conventions on Minors & Youth

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Mongolia has ratified both the Conventions 138 & 182.

Minimum Age for Employment

At workplaces, children may not be forced to perform work that could harm their health and hampers their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardize the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

Minimum Age for Hazardous Work

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

12/13 Forced Labour

ILO Conventions on Forced/Bonded labour

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

Mongolia has ratified both the Conventions 29 & 105.

Prohibition on Forced and Compulsory labour

Except for certain exceptions, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Freedom to change jobs and Right to quit

Employers have to allow you to look for work elsewhere. If you do, you should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

Inhumane Working Conditions

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.

13/13 Trade Union**ILO Conventions on Trade Union Rights**

Freedom of association and protection of the right to organize: Convention 87 (1948)

Right to Organize and Collective Bargaining: Convention 98 (1949)

Mongolia has ratified both the Conventions 87 & 98.

Freedom to join and form a union

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

Freedom of Collective Bargaining

Trade unions are entitled to negotiate with employers on term of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violation of this principle).

Right to Strike

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organize provided in ILO convention 87.

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About Decent Work and Decent Work Check

Compare your own situation with the international labour standards and how they are applied in Mongolia. At the end of the checklist you will see how things stand for you. You may be better off than what the international standards prescribe, but you should not be worse off. Behind every answer, you can find a short explanation of what your rights are; nationally and internationally. So you see right away if you can improve your situation.

The Decent Work Check makes the pretty abstract Conventions and legal texts tangible. Because, in the end, you want to know what your rights on the job mean in practice, what you may claim and what protection you are entitled to in case something unexpectedly does go wrong. The Decent Work Check employs double comparison system. It first compares national laws with international labour standards and gives a score to the national situation (happy or sad face). It allows workers to compare their real situation with national regulations in the country. Workers then compare their own score both at national and international levels. The Decent Work Check is based on de jure labour provisions, as found in the labour legislation. The real practice is informed by the employees themselves. This Check is different from other indices like World Bank's Doing Business Indicators or even ISSA's Social Security Programs throughout the World as it is not only descriptive in nature (bereft of any subjective opinions) but also that it covers a lot of different variables. The Revised Decent Work Check is also designed while taking into account upcoming Decent Work Indicators. While Decent Work Indicators focus more on statistics, our priority is informing workers about their rights through this Decent Work Check. Decent Work Check is useful both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also useful for researchers, labour rights organizations conducting surveys on the situation of rights at work and general public wanting to know more about the world of work.

WageIndicator teams, around the world, have found out that workers, small employers and labour inspectors don't even know the labour law.

When you are informed - being a worker, self-employed, employee, employer, policy maker, labour inspector - there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer) and you strive to enforce these (as a labour inspector). As soon as you complete the DecentWorkCheck, you see which issues need improvement in your work life.

This is exactly the strategy chosen in the debates in many WageIndicator countries. In the debates with roughly 20-30 people around the table from all sides, the decent Work Check has soon the effect of a mini social dialogue. The people who run the dialogue are equally well informed.

The international labour standards are laid down in ILO-Conventions. ILO is the specialised body of the United Nations working on labour issues and was founded in 1919. In the ILO, negotiations are always going on between governments of the member states, national trade unions and employer's associations regarding work related issues like rights at work and social protection. These negotiations may take years, but eventually lead to so called Conventions or Recommendations. In Conventions, minimum standards are laid down. Conventions are not the law, but the intention is that member states subscribe to the standard in question. The proper way to do that is to have these Conventions ratified by parliament and then make national laws (Some countries may follow the system of self-executing treaties). National law can be enforced. ILO-Conventions are usually accompanied by Recommendations on how to implement the standards.

Since 1999, the ILO works according to the so called Decent Work Agenda. In the meantime, the Decent Work Agenda has been widely accepted as an important strategy to fight poverty and foster development. The Agenda has been incorporated in the Millennium Development Goals of the United Nations. In short, the idea behind Decent Work is first of all an income which allows the working individual a good life. Moreover, at work, everybody has an equal chance to develop themselves; working conditions are safe; there is no instance of child and forced/bonded labour; and discrimination does not occur. Trade unions are allowed a real say in work related matters and the state has created a social safety net for all especially for the sick, weak, elderly and expecting women.

WageIndicator.org and Iftikhar Ahmad
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