



Law of Mongolia On environmental impact assessment

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CHAPTER ONE

GENERAL PROVISIONS

Article 1. Purpose of the Law

1.1 The purpose of this Law is to regulate relations concerning protection of the environment, prevention of the ecological misbalance, the use of natural resources, assessment of the environmental impact and decision-making on the start of a project.

Article 2. Legislation on Environmental Impact Assessment

2.1 The legislation on Environmental Impact Assessment shall consist of the Constitution of Mongolia, the Law of Mongolia on Environmental Protection, the present Law, and other legislative acts issued in conformity with these laws.
2.2 If an international treaty to which Mongolia is a party is inconsistent with this Law, then the provisions of the international treaty shall prevail.

Article 3. Definitions of the Law

3.1 In this Law the following terms shall have the following meaning:

3.1.1 "Environmental Impact Assessment" shall mean prior identifying, minimizing and mitigating any possible adverse effects of production or service by citizens, economic entities and organizations to the human health and the environment;

3.1.2 "Project" shall mean construction of new, or renovation or extension work of existing production or service or facilities or any other activity toward the use of natural resources;

3.1.3 "Project implementer" shall mean a citizen or a legal person responsible for the project implementation;

3.1.4 "Risk assessment" shall mean prevention of possible risks of the production process or natural disaster during the project implementation, determination and mitigation of the consequences of the risks;

3.1.5 "Assessment expertise" shall mean a conclusion by an independent experts appointed by the organization which has screened the detailed assessment report on the environmental impact of the project.

3.1.6 "Expert" shall mean a person authorized to assess the environmental impact of the project and issue the assessment conclusion.

3.1.7 "Assessment specialist" shall mean a person authorized to participate in specific areas of detailed assessment of the environmental impact and to make assessment and evaluation.

3.1.8 "Project sponsor" shall mean a citizen or a legal person sponsoring the project.

CHAPTER TWO

ENVIRONMENTAL IMPACT ASSESSMENT

Article 4. Screening of a Project

4.1 New projects as well as the renovation and expansion of existing industrial, service and construction activities and project which use natural resources in different ways shall be subject for screening.

4.2 The screening shall be done prior to mining, procurement of a license of land possession or use as well as implementation of a project.

4.3 The Citizens' Representatives' Khurals of aimags, the capital city, soums, Representatives, their Presidium and local environmental inspectors shall verify the performance of the environmental impact assessment by a citizen, economic entity or organization implementing the project.

4.4 The project implementer shall submit a project description, the technical and economic feasibility study, the work drawings and other related documents to the state administrative central body in charge of nature and environment or the local administrative body for screening according to the classification contained in the appendix to this Law and a screening shall be conducted accordingly.

4.5 The state administrative central body in charge of nature and environment shall approve methodological guidelines for the screening of projects.

4.6 The expert shall perform screening of a project within 12 working days and shall make one of the following conclusions:

4.6.1 the project may be implemented without conducting a detailed environmental impact assessment;
4.6.2 the project may be implemented pursuant to specific conditions;
4.6.3 a detailed environmental impact assessment is required;
4.6.4 rejection of the project on the ground of non-conformity with the relevant legislation, or adverse impact of the equipment and technology on the environment, or absence of the project in the land management plan.

4.7 The state administrative central body in charge of nature and environment shall appoint an environmental impact assessment expert taking into consideration professional ability and work experience. If necessary, relevant specialists may be involved in the assessment work.

4.8 If necessary, the state administrative central body in charge of nature and environment may extend the period indicated in Article 4.6 of this Law.

Article 5. Detailed Environmental Impact Assessment

5.1 The conclusions referred to in Article 4.6.3 of this Law shall define the scope of the work for the detailed environmental impact assessment.

5.2 Detailed Environmental Impact Assessments shall be conducted by a economic entity authorized to do so according to Article 9 of this Law.

5.3 The authorized economic entity shall develop Detailed Environmental Impact Assessment Report.

5.4 The Detailed Environmental Impact Assessment Report shall include the following:

5.4.1 Environmental Baseline data and indices;

5.4.2 Project and technology alternative;

5.4.3 Recommendations for minimizing and mitigating measures as well as eliminating of potential and significant adverse impacts;

5.4.4 Analysis and calculation of the extent and distribution of adverse impact and its consequences;

5.4.5 An estimation of accidents and risks;

5.4.6 Environmental Protection Plan;

5.4.7 Environmental Monitoring Program;

5.4.8 Opinion of citizens and Presidium of soums and district Citizens' Representatives Khurals of the area of the project implementation;

5.4.9 Other issues with regard to cultivated layer of the area of the project implementation and special nature of the project.

5.4.10 Rehabilitation project.

5.5 The draft Detailed Environmental Impact Assessment Report shall be submitted to the project implementer for review and official comments.

5.6 The costs of conducting Detailed Environmental Impact Assessment Report and making conclusions and decisions shall be settled according to the contract between the project sponsor and the authorized economic entity.

5.7 The economic entity that has conducted Detailed Environmental Impact Assessment shall keep the original paper and reports of assessment specialists and prepare three copies of the Detailed environmental Impact Assessment Report; one copy of the report shall be submitted to the state administrative central body in charge of nature and environment and one copy - to the project implementer. The economic entity shall keep one copy of the report and all copies shall have equal legal validity.

Article 6. Environmental Protection Plan and Environmental Monitoring Program

6.1 The project implementer shall develop an Environmental Protection Plan and Environmental Monitoring program for the purpose of implementing the recommendations and conclusions of the detailed environmental impact assessment and to monitor and control process and performance of its own activity.

6.1.1 The Environmental Protection Plan shall include measures to minimize, mitigate and eliminate adverse impacts identified during the detailed environmental Impact assessment as well as determine the timeline and estimated budget for implementation of those measures;

6.1.2 The Environmental Monitoring Program shall address the monitoring and study of changes in the environment as a result of project activity and reporting requirements, include monitoring schedule and methods as well as determine the timeline and estimated budget for implementation of those measures.

6.2 The Environmental Protection Plan for a year and the Environmental Monitoring Program and the estimated budgets for their implementation shall

be approved by the project screening organization.

6.3 A project implementer other than mining license holder shall place, as a guarantee, a sum in the amount of no less than 50 percent of the total annual amount of the environmental protection measures in the local environmental protection account of the local soum or district and shall annually report on the implementation of the Environmental Protection Plan. The pecuniary guarantee of the environmental protection measures of the mining project shall be regulated by the legislation on mining.

6.4 The Citizens' Representatives' Khural of Aimag and Capital City, Soum, district and their Presidiiums, and local environmental inspector shall make a control over the implementation of the Environmental Protection Plan and the Environmental Monitoring Program.

6.5 The screening organization shall resolve according to the relevant procedures the issue of refund the guarantee to the project implementer upon consideration of the report of implementation of the Environmental Protection Plan and results of the control mentioned in Article 6.4 of this Law.

6.6 Regulations for development of the Environmental Protection Plan and Environmental Monitoring Program and procedure and guidelines of rehabilitation shall be approved by the state administrative central body in charge of nature and environment and the rehabilitation standards - by an organization authorized to do so under the relevant legislation.

Article 7. Expertise on Detailed Environmental Impact Assessment

7.1 The economic entity which conducted the detailed environmental impact assessment shall submit the detailed environmental impact assessment report and other related documents to the screening organization.

7.2 The expert who has received the detailed environmental impact assessment report shall make assessment expertise within 18 working days. If necessary, the state administrative central body in charge of nature and environment may extend such term.

If necessary, a conclusion on assessment expertise may be made by a certified laboratory of the environmental expertise.

7.3 The state administrative central body in charge of nature and environment shall make a decision on whether to permit the implementation of the project upon the expert's conclusion on the statement on the detailed environmental impact assessment report taking into account citizens opinion of the area of the project implementation.

7.4 Procedure of assessment expertise and guidelines for the assessment shall be approved by the state administrative central body in charge of nature and environment.

7.5 The recipient organization of the detailed environmental impact assessment report shall ensure public access to the report.

7.6 Relations concerning the establishment of the database of the environmental impact assessments shall be regulated by the Law on Environmental Protection.

Article 8. Review

8.1 If a project of a economic entity or organization, which has been subject to the detailed environmental impact assessment, caused or has caused damage to the health of the population or the environment, the assessment shall be reviewed.

8.2 The state administrative central body in charge of nature and environment shall appoint the review group of the relevant professionals each time.

8.3 The state administrative central body in charge of nature and environment shall cover expenses of the review and shall later on reimburse these expenses from guilty person.

8.4 The economic entity, which conducted the detailed environmental impact assessment, and the project implementer shall promptly provide all required documents to the review.

8.5 The state administrative central body in charge of nature and environment shall set the time for the review on the basis of consultation with the relevant parties.

8.6 If it is determined by the review that the detailed environmental impact assessment was done incorrectly, then the authorized economic entity shall conduct a reassessment sufficient to meet the requirements and the state administrative central body in charge of nature and environment may suspend the economic entity's right to conduct further detailed environmental impact assessments for other projects during the suspension period.

8.7 If the review determines that additional studies are required, then all expenses for those studies shall be covered by the economic entity which conducted the original detailed environmental impact assessment.

Article 9. Issuing and Revoking a License for Conducting Detailed

Environmental Impact Assessment

- 9.1 A Mongolian economic entity wishing to be licensed to conduct detailed environmental impact assessments shall submit an application to the state administrative central body in charge of nature and environment.
- 9.2 The following documents shall be attached to the application on request for a license to conduct detailed environmental impact assessment:
- 9.2.1. Introduction of activities of the applicant economic entity;
- 9.2.2. Reference of an assessment specialist.
- 9.3 The Commission shall examine the competence of the applicant to conduct detailed environmental impact assessments and shall make a conclusion within 26 working days.
- 9.4 The Commission shall be appointed by a decision of the state administrative central body in charge of nature and environment.
- 9.5 The licensed economic entity's main activity shall be conducting detailed environmental impact assessments.
- 9.6 The license for conducting detailed environmental impact assessments shall be issued to a economic entity based on the paragraph 5, Article 7 of the Environmental Protection Law.
- 9.7 The state administrative central body in charge of nature and environment shall make a decision on licensing a economic entity to conduct detailed environmental impact assessments for a period of two years based on the recommendation of the Commission appointed in accordance with the paragraph 9.4 of this Article.
- 9.8 The licensed economic entity shall submit an application for extension of its license and a report of its completed activities to the state administrative central body in charge of nature and environment at least 2 months prior to the expiration of the license.
- 9.9 The Commission shall review the application and report and shall make its conclusion on the extension of the license.
- 9.10 The state administrative central body in charge of nature and environment may decide to extend the term of the license for conducting detailed environmental impact assessments for a period of up to two years at a time upon the conclusion of the Commission.
- 9.11 The licensed economic entity whose detailed environmental impact assessment has been proven as incorrect as a result of an assessment expertise or a review shall be imposed administrative liability or its license shall be revoked by the state administrative central body in charge of nature and environment. In the event it is determined that an assessment specialist has performed the assessment expertise not properly as a result of an assessment expertise and review the state administrative central body in charge of nature and environment may revoke his/her license for a period of up to two years
- 9.12 The state administrative central body in charge of nature and environment shall issue and revoke a license of an assessment specialist to conduct environmental impact assessment.

CHAPTER THREE

RIGHTS AND DUTIES OF PARTICIPANTS IN ENVIRONMENTAL IMPACT ASSESSMENT

Article 10. Rights and Duties of a Project Implementer

- 10.1 The project implementer shall have the following rights:
- 10.1.1 to submit its request to conduct environmental impact assessment to an authorized economic entity;
- 10.1.2 to choose a licensed economic entity to conduct detailed environmental impact assessment;
- 10.1.3 to require the economic entity conducting detailed environmental impact assessment to keep confidentiality of some information

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related to a technology and business activities of the project.

- 10.2. The project implementer shall have the following duties:
- 10.2.1 to provide authorized organizations and officials with documents related to the conducting of the detailed environmental impact assessment of the proposed project;
- 10.2.2 to develop and implement environmental protection plan and environmental monitoring program and report its performance pursuant to a schedule.

Article 11. Rights and Duties of a Licensed Economic Entity Authorized to Conduct Detailed Environmental Impact Assessment

11.1 A licensed economic entity shall have the following rights:
11.1.1 to request the project implementer to provide necessary documents for conducting the detailed environmental impact assessment;
11.1.2 if it is necessary for conducting the detailed environmental impact assessment, to have free access to the working place and to take samples;
11.1.3 to monitor implementation of the plan and the program described in the detailed environmental impact assessment, if necessary, to recommend to the state administrative central body in charge of nature and environment on the issue of continuation of the project.
11.2 A licensed economic entity shall have the following duties:
11.2.1 to use the existing reports and conclusions of previous research studies;
11.2.2 to make amendments to the detailed environmental impact assessment report based on the comments on the report;
11.2.3 to ensure accuracy of the results of the detailed environmental impact assessment;
11.2.4 to keep confidentiality of the technological and business related information of the proposed project.
11.3 The risk associated with conducting detailed environmental impact assessment by a licensed economic entity shall be regulated according to the legislation on insurance.

CHAPTER FOUR MISCELLANEOUS

Article 12. Liability for Violation of the Legislation

12.1 Violators of the legislation on environmental impact assessment are subject to the criminal or administrative liability in accordance with the nature of the violation and the size of the damages.
12.2 Where violation of the legislation on environmental impact assessment is not subject to the criminal liability, following administrative sanctions shall be imposed by a judge or by a state environmental inspector:
12.2.1 if the project has been implemented without conducting environmental impact assessment and appropriate decision, illegal income shall be confiscated to the state and transferred to the sum or district budget;
12.2.2 if project implementation activities do not meet the requirements defined in the environmental impact assessment report, project implementation shall be suspended until the rectification of the violation and fine of 50,000 tugrugs shall be applied to an official and 250,000 tugrugs to a economic entity or organization guilty of the violation;
12.2.3 if the project has been implemented and operated without an environmental protection plan and environmental monitoring program or does not implement environmental protection plan and environmental monitoring program or report its performance on time to the appropriate authority, a fine of 25,000-50,000 tugrugs shall be applied to an official and 250,000 tugrugs to a economic entity or organization guilty of the violation;
12.2.4 If a licensed economic entity has conducted a detailed environmental impact assessment which has been found as incorrect as a result of an assessment expertise or a review, a fine of 150,000 - 250,000 tugrugs shall be applied to that economic entity.

Article 13. Compensation for Damages

13.1 Damage to the human health, property and environment caused by the implementation of a project without an environmental impact assessment or non-compliance with the requirements defined in the environmental impact assessment shall be compensated by guilty person.
13.2 In the event it is proved that the licensed economic entity has conducted the detailed environmental impact assessment incorrectly, the related costs and direct losses shall be compensated by the economic entity.

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SPEAKER OF THE PARLIAMENT