

THE ENVIRONMENTAL PROTECTION LAW OF MONGOLIA

The 18th day of November, 2005

Ulaanbaatar city

AMENDMENTS OF THE ENVIRONMENTAL PROTECTION LAW OF
MONGOLIA

I. The following amendments shall be added to the Environmental Protection Law of Mongolia.

Amendment 1.

Article 3, Paragraphs 7 and 8:

“7. the term “environmental protection” [conservation] shall include prevention from environment pollution, sustainable use of natural resources within its capacity without breaking the natural way of restoring environmental quality, reclamation work and monitoring of those activities.

8. the term “the user group” /*nukhurlul*/ shall mean a voluntary group of the community users that is formed in compliance with the Article 481.1 of the Civil Code of Mongolia and operates on the contract basis as specified in the Civil Code with the mission to conserve the specific natural resources within their community boundaries, and to contractually own and use those natural resources in a sustainable manner.”

Amendment 2.

Article 4, Paragraph 1, Sub-paragraph 6:

“6. to be organized on a voluntary basis to conserve the specific natural resources within their community boundaries and to contractually own and use those resources according to the existing legislature by forming a “user group” as specified in the Article 3, Paragraph 2, Sub-paragraph 8 of this Law.”

Amendment 3.

Article 4, Paragraph 2, Sub-paragraph 4:

“4. to inform the local governor, state inspector, and/or ranger without delay about any unlawful use of natural resources, damage or loss.”

Amendment 4.

Article 6, Paragraph 3, 4.

“3. Citizens may own the plants and/or forest, that they have cultivated, or the animals they have bred, the water pools, ponds, or lakes with the accumulated precipitation water at the piece of land that they, or their business entity, or their organization owns or possesses in compliance with the existing legislation.

4. The ownership right shall be issued in compliance with the existing legislation based on the conclusion of the research institution on creation of natural resources according to the Article 6, Sub-paragraph 3 of this Law, and the recommendations of the local government and central State administrative body in charge of nature and the environment.”

Amendment 5.

Article 15, Paragraph 1, Sub-paragraph 11.

“11. to develop and approve procedures on hiring the volunteer rangers and end-result rewarding mechanism.”

Amendment 6.

Article 17, Paragraph 1, Sub-paragraph 5.

“5. based on the recommendation of the bagh and khoroo’s Citizen’s Representative Hurals to make a decision on delegating its duty to conserve, use, and possess the specific natural resources within their territory to the “users group” as specified in the Article 3, Paragraph 2, Sub-paragraph 8.”

Amendment 7

Article 17, Paragraph 2, Sub-paragraph 7.

“7. based on the decision made in compliance with the Article 17, Paragraph 1, Sub-paragraph 5 of this Law to sign a time-limited and condition-framed contract with the user group on the use, possession, and conservation of the specific natural resource in accordance with the existing legislation. “

Amendment 8

Article 19, Paragraph 2, Sub-paragraph 7.

“7. the delegation of the responsibility for conservation, use, and possession of the specific natural resources to the user groups on contractual basis.”

Amendment 9.

Article 26, Paragraphs 5,6,7,8.

“5. Only a university graduate, who has been trained in or has gained sufficient work experience in ecology, conservation, environmental monitoring, and/or environmental impact assessment shall be hired as a General State Environmental Inspector.

6. Only citizens who have been enrolled and completed professional training courses at the education institution with a special license to conduct an environmental training from the central State administrative body in charge of education shall be hired as rangers.

7. One ranger shall be responsible for up to 100.0 hectares in mountainous area, up to 120.0 hectares in forest-steppe area, up to 500.0 hectares in steppe area, up to 600.0 hectares in steppe-desert area, up to 800.0 hectares in desert area. There shall be one ranger per 30 km in the forest area planted with the government budget, this standard shall be narrowed down by 70 per cents in the green zone near the municipalities. The Government of Mongolia taking into account the category of the state protected area, the conservation regulations and bylaws, special features, load shall determine the list of the soums that belong to the specific zone, and size of the territory to be monitored by one ranger.

8. An activist ranger can be nominated to assist in monitoring the conservation activities in the specific area, sustainable use of its resources, and restoration (reclamation) work.”

Amendment 10.

Article 27, Paragraph 2, Sub-paragraph 6.

“6. to increase the public participation in the conservation, sustainable use and restoration of natural resources, and monitoring activities, and to trigger the public initiatives, consult, support, organize and cooperate with local communities.”

Amendment 11.

Article 29¹.

“¹ Article 29. Assurance for the State Inspectors and Rangers to have social security and to exercise rights.

1. State Inspectors and Rangers shall have the following assurance to have social security and to exercise their rights:

1/ a one-time lump sum remuneration equal to the amount of the 12 months base salary shall be paid to the retiree, who has worked 25 or more years with the public service, including last 10 years in a capacity of the State Inspector or Ranger.

2/ shall be provided by the means of transportation, uniform, a weapon, a defensive weapon for exercising their duties and responsibilities.

2. In case when the State Inspector or Ranger temporary loses the working ability, becomes disabled, or loses life while on duty due to external violence, the State Inspector or Ranger, or his/her family shall have the following compensation:

1/ in case of temporary lost working ability, while on sick leave the State Inspector or Ranger shall be paid the difference between the base salary and the medical benefits

2/ in case of permanent disability, the State Inspector or Ranger shall be paid the difference between the base salary and the disability allowance

3/ in case of death, the State Inspector or Ranger's family shall be paid one time lump sum compensation in amount equal to the three-years base salary

4/ the payment and compensations referred in paragraph 2 of this Article shall be paid from the state budget, and reimbursed by the offender.

5/ all other assurances according to the existing legislation.”

Amendment 12.

Article 30, Paragraph 2.

“30.2. The Government shall establish bylaws and procedures to grant the right to professional organization”

Amendment 13.

Article 31¹

“Article 31¹. User Group

1. The local community members can take part in conservation activities by organizing a user group in compliance with the Article 3, Paragraph 2, Sub-paragraph 8 of this Law and shall have a privileged right for the use and possession of the specific natural resource within the territory, the conservation of which they are responsible for according to the contract within the existing legislation.
2. A member of the user group shall be a citizen of Mongolia over age 18, a permanent resident, registered in the soum or duureg.
3. Central State administrative body in charge of nature and the environment shall approve the bylaws of the user group to conserve, use, and possess the specific natural resource.
4. Based on the bylaws approved by the central State administrative body in charge of nature and the environment according to the paragraph 3 of this Law, the all-members meeting of the user group shall discuss and approve the conservation workplan.
5. The membership number of the user group, the size of the area, the natural resources deposits, and their specific features shall be considered when the responsibility for the specific natural resources is delegated to the user group according to the contract.
6. The specific natural resources under the responsibility of the user group shall not include the land, underground resources, pasture, the water resources, and special purposes land.
7. On request of citizens the soum or duureg Governor shall form the conservation user group based on the submission of the following documents:
 - 1/ the proposal of the bagh or khoroo Citizens Representatives Hural and the decision of the Soum or Duureg Citizens Representatives Hural.
 - 2/ the user group’s application document to undertake conservation activities
 - 3/ a conservation workplan discussed and approved by the user group all-members meeting
 - 4/ the copy of the contract on cooperation of the user group founding members

5/ the copies of national identification of the user group members

8. If the requirements referred to in paragraph 2 of this Article are fulfilled, the complete list of documents referred to in paragraph 7 of this Article are duly submitted, and the provisions of the bylaws approved according to the paragraph 3 of this Article are met, then the Soum or Duureg Governor shall accept a request from the user group to carry out conservation activities, sign a contract and issue a certificate.
9. A member of the Government in charge of nature and the environment shall approve an exemplar for the user group's contract and certificate to carry out conservation activities.
10. Soum or Duureg Governor shall cease the activities of the user group and terminate its contract in the following circumstances:
 - 1/ if there is a proposal of the bagh or khoroo Citizens Representatives Hural and the decision of the Soum or Duureg Citizens Representatives Hural to cease the conservation activities of the user group
 - 2/ if there have been repeated breaches of the obligations referred to in the paragraph 11 of this Article or in the contract, or no conservation activities have been carried out within the six months since the establishment of the user group
 - 3/ if the decision to cease the conservation activities was made at the all-member meeting of the user group.
 - 4/ if there is breach of the requirement referred to in paragraph 2 of this Article.
11. User group shall fulfill the duties referred to in the Article 31 of this Law, and other legislative documents related to the conservation, use, and possession of the specific natural resources, as well as all obligations specified in the contract signed with the Governor according to the existing legislation.
12. User group shall annually present and report the implementation of its conservation workplan at the Soum or Duureg Citizens Representative Hural.”

Amendment 14.

Article 34, paragraphs 4,5,6,7

“4. Soum or Duureg Governor shall pay a monetary reward equal to 15 per cents of the compensation paid by the person in breach to the citizens, who truthfully informed the authorities, or officials in charge about the breach of the environmental legislation, or exposed the breach, or evidently assisted in exposing the breach.

5. The related aimag, capital, soum, or duureg Governor shall pay a monetary reward equal to 15 per cents of the income from the seized natural resources illegally processed for market to the State Inspector or Ranger, who exposed the breach.

6. A government member in charge of nature and the environment and a government member in charge of finance shall approve the procedures on reward payment referred to in paragraph 4 of this Article.

7. The identity of the informant referred to in paragraph 4 of this article shall be classified according to the related existing legislation.”

Amendment 15

Article 38, paragraph 2, subparagraph 4

“4/ officials who fail to bring a claim in court requiring compensation against those in breach of environmental legislation according to the Article 37, paragraph 2 of this Law shall be liable to a fine of 30000-60000 togrogs.”

Amendment 16

Article 38, paragraph 4

“4/ citizens who intentionally disobey the lawful requirements of the State Inspectors or rangers, call others to disobey; defy; intentionally contravene with the duty performances of the State Inspectors or rangers; intimidate, insult, calumniate, threaten, force the State Inspectors, Rangers, or their family members shall be liable to penalties according to the Criminal and Administrative Laws.”

II. The following wording shall be added to the Environmental Protection Law of Mongolia

- Article 4, paragraph 1, subparagraph 3 – after “to establish non-governmental organizations and capital funds for protection of the environment” shall add “to unite local people on voluntary basis for the conservation and restoration of natural resources, and use benefits from the natural resources”
- Article 14, paragraph 2, and Article 15, paragraph 1, subparagraph 4 – after “to limit” and “to restrict” respectively shall add “to temporarily prohibit”
- Article 15, paragraph 1, subparagraph 6 – after “to provide citizens, business entities and organizations with environmental organizations” shall add “to support the fair distribution of the

benefits from the traditional knowledge, a breakthrough, daily practices to use on sustainable basis the biological or genetic resources”

- Article 16, paragraph 2, subparagraph 5, and Article 17, paragraph 2, subparagraph 5 – after “distinctive badges” shall add “uniforms”
- Article 19, paragraph 2, subparagraph 3, and Article 20, paragraph 1, subparagraph 1, and Article 34, paragraph 1, – after “adverse environmental impacts” and “toxic” shall add “dangerous”
- Article 34, paragraph 1, Article 19, paragraph 2, subparagraph 5 – “non-polluting”, “environmentally sound” shall add “safe”
- Article 20, paragraph 1, subparagraph 7 – after “environmentally carrying capacity” shall add “and resource use”
- Article 20, paragraph 2 – after “the limits referred to in subparagraphs 1” shall add “2”
- Article 27, paragraph 1, subparagraph 10 –after the “invalidating license, permission and rights” shall add “suspending or terminating the activities”
- Article 28, paragraph 2, subparagraph 3 – after “to show” shall add “monitor”
- Article 30, paragraph 1 – after “use” shall add “restoration”
- Article 32, paragraph 2 – after “to non-governmental organizations” shall add “or the unit that is formed to unite the local community members on voluntary basis”
- Article 35, paragraph 2 – after “the use of natural resources which exceeds the limits permitted by contract and license” shall add “or is gained from hunting, collection, preparation, and exploration without permits”
- Article 38, paragraph 2 – after “or” shall add “environmental monitoring”
- Article 38, paragraph 2, subparagraph 1 – “of this law” shall add “article 21, paragraph 3”

III. The following editions shall be made in Article 7, paragraph 5, subparagraph 1,3, and Article 31, paragraph 4 of the Environmental Protection Law of Mongolia

Amendment 1

Article 7, paragraph 5, subparagraph 1,3

“1/ at least the one third of the assessment team shall consist of the professionally trained full-time staff.

3/ the methodology of the environmental assessment approved by the accredited professional organization.”

Amendment 2

Article 31, paragraph 4

“4/ if engaged in environmentally adverse production and services, to include and implement in their annual budget the amounts necessary for mitigation and halting the adverse environmental impact, and conservation, and restoration activities.”

IV. The following changes shall be made in the Environmental Protection Law Of Mongolia

- Article 8, paragraph 2 the words “State Information Databank” shall be changed as “state integrated information databank”
- Article 15, paragraph 1 the words “11” shall be changed as “12”
- Article 20, paragraph 1, subparagraph 2 the words “toxic” shall be changed as “hazardous and dangerous”
- Article 20, paragraph 1 the words “hazardous” shall be changed as “negative”
- Article 20, paragraph 3 the words “toxic” and “adversely” shall be changed as “negative”
- Article 21, paragraph 4 the words “radioactive and toxic chemicals” shall be changed as “radioactive, toxic, and dangerous chemicals, and the chemical solutions containing these chemicals”
- Article 26, paragraph 4, subparagraph 4 the words “established by the Government” shall be changed as “as referred to in Article 26, paragraph 7 of this law”
- Article 30, paragraph “2” shall be changed as “3”
- Article 32, the title of an article, and Article 32, paragraph 2 the words “grass root” shall be changed as “non-governmental”
(English translation of the previous version contains already the phrase "non-governmental" (not "grass-root"))
- Article 37, paragraph 2 the words “may bring a claim in court” shall be changed as “Soum or Duureg Governor shall bring a claim in court”
- Article 38, paragraph 2, subparagraph 1 the words “50000-100000” shall be changed as “100000-200000”
- Article 38, paragraph 1, subparagraph 2 the words “10000-20000” shall be changed as “20000-40000”, the words “75000-150000” shall be changed as “150000-250000”
- Article 38, paragraph 1, subparagraph 3 the words “10000-25000” shall be changed as “20000-50000”, the words “150000-200000” shall be changed as “200000-250000”.

V. The following phrases shall be removed from the Environmental Protection Law of Mongolia

- Article 16, paragraph 2, subparagraph 5 the words “ to co-ordinate the environmental protection activities of organizations responsible for State control of environmental protection” shall be removed
- Article 20, paragraph 3 the words “if necessary” shall be removed
- Article 21, paragraph 3, subparagraph 1 the words “flammable” shall be removed
- Article 27, paragraph 1, subparagraph 9 the words “if citizens, organizations and business entities don’t agree the decision, the court” shall be removed