

Revised Labour Law and its impact on business and payroll compliance

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The revised Labour Law (the “New Labour Law”) was adopted on 2 July 2021 and will come into force next year. The proposal for revising the Labour Law was submitted to the Parliament on March 28, 2018. Furthermore, there had been huge expectations of the revised Labour Law, which replaced the current law after 22 years. With this Tax and Legal Alert, we highlight the key changes in the New Labour Law and its impact on business and payroll calculations.



Application

The New Labour Law will come into force on 1 January 2022. An employment agreement concluded prior to the adoption of the New Labour Law shall be valid for a period agreed upon by the parties. However, if the employment agreement is amended in accordance with the New Labour Law, the legal status and labour conditions of the employee should not be deteriorated.



Key changes

1. Base salary of employees during the probation and apprenticeship period

According to the New Labour Law, an apprentice’s base salary shall not be less than 70% of a base salary of a full-time employee performing the same type of work. A probationary worker’s base salary must be the same as the base salary of the same position.

2. Allowance during a non-compete period

The New Labour Law has introduced an allowance to be paid by employers during a non-compete period to a former employee. An employer is obliged to provide an allowance equal to 50% of an employee's last salary during a non-compete period to such employee after an employment agreement is terminated if there is a non-compete agreement between the employer and the employee.

3. Employment deemed to be continuous while employees on a leave

If an employee is on certain types of unpaid leaves which are specified in the law, his/her services are deemed to be continuous for the purpose of the social (pension) and health insurance and calculating of his/her annual vacation entitlement. The New Labour Law extended the leave types by a military leave. However, the new rules allow employers to terminate an employment contract if an employee who is on leaves such as maternity, childcare or military leave, did not return to work within 15 days after the expiration of the specified period or did not provide a request to extend the leave with reasonable excuses.

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Key changes (cont'd)

4. Extra pay for night works

The New Labour Law requires employers to provide an extra pay to employees who work during night hours /10pm-6am/ if time off in lieu is not provided. The pay amount must be not less than 1.2 times the respective hourly salary is. In addition, employers are responsible for covering expenses in relation to preventive medical examination of full time night shift workers.

5. Annual leave loading

Employees, who were unable to take their annual leave in an annual leave cycle due to the urgent business necessity, should be paid an allowance of 1.5 times their respective standard annual vacation pay is. Under the new law, new employees are entitled for the annual vacation from the 7th month of their employment commencement. Furthermore, employees are entitled for 10 consecutive calendar days of leave at least once out of the minimum 15 calendar days leave.

6. Severance pay

The amount of severance pay has been changed, and the following amounts shall be paid to an employee in case of employment termination under certain circumstances depending on the employee's length of service for that particular employer:

<i>Length of service with the employer</i>	The amount of severance pay
6 months - 2 years	Equal to 1 month base salary
2 -5 years	Equal to 2 months base salary
5 – 10 years	Equal to 3 months base salary
10 or more years	Equal to 4 months base salary

7. Limitations on work hours

The New Labour Law provides that employees should not work more than 56 hours per week. Also, the maximum overtime per day should not exceed 4 hours.

8. Shift-works

The New Labour Law introduces requirements for shift-works while the current law is silent on this matter. Employers are obliged to do/post an advance notification of a shift work schedule to employees at least 48 hours prior to the first shift. Regular working hours of one shift shall not exceed 8 hours. An employer may extend the shift working hours up to 4 hours.

9. On-call schedule

According to the New Labour Law, when employees are on-call outside of regular working hours, the on-call-time counts as the working time and must be compensated. If an employee is on-call at a location specified by an employer, such employee is entitled for an allowance of at least 50 percent of his/her base salary for the respective period. For other circumstances an allowance of at least 30% of the employee's base salary for the respective period should be provided.

10. Roster shifts

For the first time, the New Labour Law introduces requirements for roster shifts which is applicable to mining industry. The duration of the working time shall be 14 days as well as the rest and recreation period shall be 14 days. Furthermore, travel time of an employee on roster shifts will be counted as working hours.

11. Employers' obligation to provide pay slips to employees

Employers are required to notify employees in writing or electronically about the salary composition to be paid during the period, the deduction amount and its grounds, and the amount of salary paid.

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Key changes (cont'd)

12. Employees' obligation to pay back study costs

If an employer provided financial support to an employee for studying during the employment, such employer may request an employee to reimburse the relevant costs in certain circumstances. Relevant conditions can be included in an employment contract or there can be a separate agreement between the parties.

13. Reimbursement for employees who use personal tools and items for work

An employer shall reimburse relevant expenses if an employee used personal tools and items for work as agreed or due to the fact that the employer failed to provide necessary tools for performing his/her duties.

14. Paternity leave

A father with a newborn shall be provided at least 10 working days of paid leave, which is equal to the average salary for the respective period.

15. Employing a person with disabilities

Fees for not employing a person with disabilities reduced to the minimum wage (MNT 420,000) per month. The New Labour Law further provides an opportunity for employers to get exemptions and discounts from these fees if an employer supports activities of persons with disabilities and their family members, who provide ongoing care to persons with disabilities by regularly purchasing goods, products and services produced by them. A detailed regulation on the exemptions and discounts will be approved by the Cabinet.



Penalties

Following the adoption of the New Labour Law, the Parliament instructed the Cabinet to submit draft laws to amend the Criminal Code (2015) and the Infringement Law (2017) accordingly in terms of updating penalties for breaches (during the autumn session of the Parliament in 2021). We will update our clients on any relevant legislative changes in this regard as soon as the relevant information is available.



Further actions to be taken

Employers are recommended to take the following measures in relation to the New Labour Law:

- Update/amend/renew key employment documents such as employment contracts and labor/HR policies/manuals;
- Develop/update an employee data protection policy;
- Conduct a payroll cost analysis to see impact and budgeting for 2022 and onwards.

For details of the New Labour Law, please visit: <https://www.legalinfo.mn/law/details/16817?lawid=16817>

Should you have more question with this regard, please do not hesitate to contact us.

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