

Amendment to the Regulation for determining the average salary effective from 01 April 2022

Contact us:

Michael Ahern

Partner
Tax and Legal Services
michael.ahern@pwc.com

Tsendmaa Choijamts

Director
Tax and Legal Services
tsendmaa.choijamts@pwc.com

Munkhjargal Ragchaakhuu

Legal Manager
Tax and Legal Services
munkhjargal.ragchaakhuu@pwc.com

Amarjargal Batchuluun

Senior Legal Consultant
Tax and Legal Services
amarjargal.batchuluun@pwc.com

PwC Legal LLP

Central Tower, 6th floor
Suite 603, Ulaanbaatar
14200, Mongolia
Tel : + 976 70009089
Fax : +976 11 322068
www.pwc.com/mn

Minister of Labour and Social Protection (“**MLSP**”) made an amendment to the Regulation for determining the average salary (“**Average Salary Regulation**”) on 17 March 2022 and it will be effective from 01 April 2022 (the “**Amendment**”). The Amendment was registered with the Ministry of Justice and Home Affairs on 31 March 2022.

The main objective of the Average Salary Regulation is to define the salary component and a reference period for calculating **additional pays** including overtime pay, nightshift pay and others and some statutory allowances. Upon commencement of the Average Salary Regulation from 01 January 2022, additional pays under the Labour Law are to be calculated on the basis of employee’s previous 3-month average salary which comprise of 1) base salary; 2) extra pay; 3) additional pay; 4) annual vacation pay and 5) bonuses.

The Average Salary Regulation has been criticised by employers as the regulation led to artificial and exponential increase of salaries of employees who work in shift/roster arrangements while outputs or working hours of employees were not increased due to the new method introduced thereafter. It is understood that MLSP introduced the Amendment in order to fix the negative implications of the regulation on employers.



What has changed?

The Amendment provides an option that employers **may** exclude **additional pay** and **one-off bonuses** from the salary component which is used for calculating **average salary of employees** for the purpose determining the amount of additional pays. In this case, the salary component used for average salary calculation **may** comprise of 1) base salary, 2) extra pay and 3) annual vacation pay.

The Amendment does not have retrospective application.

Application of the Average Salary Regulation and the Amendment is illustrated below:



📍 For more in-depth discussion about the Amendment and any other questions you may have, please do not hesitate to contact us.

For details of the Amendment, please visit

<https://legalinfo.mn/mn/detail?lawId=16468248973651&showType=1>



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