

LAW OF MONGOLIA
ON ENVIRONMENTAL IMPACT ASSESSMENTS

(As Amended Day .../ Month/ 2011, Ulaanbaatar)

CHAPTER ONE

General Provisions

Article 1. Purpose of this Law

1.1. The purpose of this Law is to protect the environment, prevent ecological imbalance, ensure minimal adverse impacts on the environment from the use of natural resources, and regulate relations that may arise in connection with the assessment of environmental impacts of and approval decisions on regional and sectoral policies, development programs and plans and projects.

Article 2. Legislation

2.1. The legislation on Environmental Impact Assessment shall consist of the Constitution of Mongolia, the Law of Mongolia on Environmental Protection, and other legislative acts which were enacted in conformity therewith.

2.2. If an international treaty to which Mongolia is a signatory provides otherwise, then the provisions of the international treaty shall prevail.

Article 3. Definitions

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

3.1.1. "Project" shall mean the establishment of new, or renovation and expansion of any existing production, services, facilities and activities related to petroleum extraction and mining and building construction or any other activities towards the use of natural resources;

3.1.2. "Project implementer" shall mean a legal body responsible for the project implementation;

3.1.3 "Strategic environmental assessment" (hereinafter referred to as strategic assessment) shall mean the identification, in the process of preparing national, regional and sectoral policies, development programs and plans that are to be endorsed by the Parliament and Government, and, in the context of impending nature and climatic changes, of potential risks, adverse impacts and consequences of actions to be taken in accordance with those policies, programs and plans on the environment, society and human health;

3.1.4 “Environmental baseline assessment” shall mean an assessment that are carried out during the preparation of a feasibility study, design and drawing of any projects and formulation of national, regional and sector development programs and plans in order to establish the existing conditions and state of nature and environment of the territory, in which the proposed projects, programs and plans are to be implemented and to identify any environmental considerations that the project, programs, plans and policies need to incorporate;

3.1.5 “Cumulative impact assessment” shall mean the analysis of all effects with regard to human health, both combined and duplicate, on a particular area and basin and the environment from various projects implemented by individuals, business entities, and organizations and proposing proper mitigation measures;

3.1.6. "Environmental impact assessment" shall mean prior identification, mitigation and elimination of possible adverse impacts of a particular project to be implemented by individuals, business entities and organizations on human health and the environment;

3.1.7 "Assessment expert" shall mean a person who is authorized to appraise and provide expert opinion on the assessment and assessment reports specified in Article 3.1.7. (pls check this cross-reference)

3.1.8 "Assessment appraisal" shall mean a process of providing a professional judgment as to whether the environmental impact assessment specified in Article 3.1.7 was performed in accordance with relevant laws and regulations and its findings, reports, statements and recommendations are grounded and accurate.

3.1.9 “Review” shall mean a process of offering a professional opinion on the accuracy of findings, reports, statements and prudence of recommendations of the approved environmental impact assessment;

3.1.10 "Risk assessment" shall mean prior identification of potential impacts of chemical, biological and physical factors and natural hazards on human, flora, fauna and he environment;

3.1.11 “Ex-situ conservation of biodiversity” shall mean a restoration measure which involves reintroduction to a new location of biodiversity that has lost its native characteristics and habitat as a result of the project activities;

CHAPTER TWO

Article 4. Assessments of Environmental Impact

4.1 Assessments of environmental impact shall include the following:

4.1.1 Strategic environmental assessment;

4.1.2 Environmental baseline assessment;

4.1.3 Environmental impact assessment;

4.1.4 Cumulative impact assessment;

Article 5. Strategic environmental assessment

5.1 The line ministry proposing the policies, programs and plans shall be responsible for having the policies, programs and plans strategically appraised and submitting the strategic appraisal report together with the draft policy document to the state central administrative body in charge of nature and environment prior to their submission to the Government Cabinet.

5.2 Strategic assessments shall be carried out by a professional entity licensed by the state central administrative body in charge of nature and environment with due inputs from a team of research institutions, independent experts and professionals.

5.3 The procedure for strategic and cumulative impact assessments shall be approved by the government.

5.4 The opinions and recommendations presented in the strategic assessment shall first be discussed by the Technical Board and then presented to the government by the Minister of Nature and Environment.

5.5 The line ministry proposing the project and the state central administrative organization in charge of nature and environment shall disclose the information regarding the opinions and recommendations resulting from the strategic assessment to the public by via their websites. A print version shall also be made accessible to the public.

Article 6. Environmental Baseline Assessment and Cumulative Impact Assessment

6.1 Environmental Baseline Assessment

6.1.1 The project implementer is responsible for commissioning the assessment referred to in Article 3.1.5 (perhaps it should be 3.1.4 ?) to identify potential impacts of the project.

6.1.2 The project implementer shall ensure that the environmental baseline assessment is performed with the due participation from the licensed professional entity and research institutions and if necessary, shall seek guidance from the state central administrative organization in charge of nature and environment.

6.1.3 The project implementer shall initiate a study for ex-situ biodiversity conservation with due inputs from professional and research institutions.

6.2 Cumulative impact assessment

6.2.1 The state central administrative organization in charge of nature and environment shall conduct the assessment specified in Article 3.1.6 (3.1.5 ?) to analyse the effects on a region and basin from various projects implemented by individuals and business entities with due inputs from a licensed professional entity.

6.2.2 If it is deemed necessary, the cabinet member in charge of nature and environment may appoint a team of experts for this purpose.

6.2.3 The costs associated with the cumulative impact assessment shall be borne by the project implementers.

6.2.4 The professional licensed entity shall submit for review the environmental baseline assessment report and cumulative impact assessment report to the Technical Board designated for hearing assessments at the state central administrative organization in charge of nature and environment.

Article 7. Environmental Impact Assessments

7.1 An environmental impact assessment shall consist of the following two assessments:

7.1.1 General environmental impact assessment

7.1.2 Detailed environmental impact assessment

7.2 Applications for a license for the use of natural resources, extraction of petroleum and minerals, and possession and use of land for business purposes and an approval for any other projects are subject to a prior general environmental impact assessment.

7.3 The project implementer shall apply for a general environmental impact assessment to the state central administrative organization in charge of nature and environment or the aimag and capital city governor's office, whichever is applicable according to the classification annexed to this law, by submitting a brief description of the project, the feasibility study, the engineering design and drawings, baseline description of the proposed project environment, a written opinion of the relevant soum and district governor and other related documents .

7.4. General environmental impact assessments for all new projects and existing plants, factories, services and building facilities that are planned to be renovated and expanded and projects that will make use of natural resources in one way or another shall be performed by an assessment expert who shall complete the assessment within 14 working days and issue a formal opinion as to whether:

7.4.1. The project should not be permitted or rejected on the grounds that it is likely to cause considerable harm to the environment by virtue of its proposed technology,

technique and activities; that it is absent in the land management planning; that its activities are inconsistent with the state policy, the strategic assessment opinions or relevant legislation;

7.4.2. The project may be implemented without a detailed environmental impact assessment subject to specific conditions;

7.4.3 The project requires detailed environmental impact assessment.

7.5 If deemed necessary, the time period specified in Article 7.4 may be extended once by 14 days at the decision of the chief expert.

7.6 The state central administrative organization in charge of nature and environment shall appoint the experts to work on the assessment and the chief expert who is to lead and coordinate the other experts upon taking into consideration their professional competence and work experience in terms of environmental impact assessment.

7.7 The state central administrative organization in charge of nature and environment shall approve the regulation and methodological guidelines for the conduct of environmental impact assessments. The regulation shall govern the issues concerning the environmental impact assessments including appraisal and review of assessments, terms of reference of the Technical Board and public involvement in such assessments.

7.8 A designated Technical Board for environmental impact assessment, hereinafter referred to as “Technical Board”, shall be established at the state central administrative organization in charge of nature and environment, with responsibilities for solving issues concerning the environmental impact assessments, issuing formal opinions and providing recommendations on the findings and the reports of the assessments referred to in Article 5.4

7.9 The state central administrative organization in charge of nature and environment shall appoint the Technical Board for environmental impact assessment.

Article 8. Detailed Environmental Impact Assessment

8.1. The opinion referred to in Article 7.4.3 of this Law shall define the objectives, areas, scope and duration of the work for the detailed impact assessment.

8.2. A detailed impact assessment shall be conducted by a Mongolian legal entity authorized to do so in accordance with Article 13 of this Law.

8.3. The authorized legal entity shall prepare a report presenting the findings of the detailed environmental impact assessment and develop an environmental management plan.

8.4. The Detailed Environmental Impact Assessment Report shall include the following:

8.4.1. The baseline data and indicators of the environment in which the project is proposed to be implemented;

8.4.2 Estimations and findings of studies that are conducted to identify a potential and the major negative impact of the project and establish their magnitude, spatial extent and consequences.

8.4.3 Recommendations for measures to mitigate and eliminate potential and the major impact of the project;

8.4.4 Recommendations for alternative methods and technology that may potentially reduce the pollution level expected from the proposed project and for environmentally-friendly method and technology;

8.4.5 Risk assessment of impacts of the proposed project on human health and environment if the general environmental impact assessment requires doing so;

8.4.6 Discussion of mine closure activities, objectives, scope and indicators of restoration measures and details of ex-situ conservation measures for petroleum, and mining projects and radioactive minerals projects;

8.4.7 Discussion of objectives, scope and indicators of environmental management plan;

8.4.8 Notes of consultations made with local authority and community likely to be affected by the proposed project;

8.4.9 Other issues pertaining to the cultural stratum and special nature of the project.

8.5. The project implementer shall be officially asked to comment on the detailed environmental impact assessment report.

8.6 The project implementer shall bear the costs associated with the conduct of the detailed environmental impact assessment.

8.7 The entity that has conducted detailed environmental impact assessment shall keep the original copy of the primary data and information collected in the field and findings of the investigation carried out by the assessment specialist. It shall prepare a detailed environmental impact assessment report in four copies of equal validity, one of which is to be submitted to the state central administrative body in charge of nature and environment, another to the project implementer, and third to the soum and district governments having jurisdiction over the proposed project. The entity shall retain the remaining copy.

8.8 Local rangers, state environmental inspectors, governors of all levels and the state central administrative body in charge of geology and mining shall verify the existence of environmental impact assessment for projects implemented by individuals, business entities.

Article 9. Environmental Management Plan

9.1 The entity that has performed a detailed environmental impact assessment shall develop an environmental management plan in order to protect and ensure sustainable use and restoration of the nature and environment in which the proposed project is to be implemented, ensure the realization of recommendations outlined in the strategic assessment, mitigate, eliminate and prevent adverse impacts that are identified by the detailed impact assessment and monitor and identify potential negative consequences that may arise in the proposed project environment.

9.2 An environmental management plan shall form an integral part of the detailed environmental impact assessment.

9.3 The entity that has performed the general assessment shall approve the environmental management plan for the proposed project and grant the permit to go ahead with the project.

9.4 Procedures and methods for developing environmental management plan and carrying out restoration measures shall be approved by the state central administrative body in charge of nature and environment and the restoration standards by an organization authorized to do so under the law.

9.5 An environmental management plan shall consist of an environmental protection plan and environmental monitoring program:

9.5.1 The environmental protection plan shall address measures to mitigate and eliminate adverse impacts identified during the environmental impact assessment and provide for the timeframe and estimated budget for implementation of those measures.

9.5.2 The Environmental Monitoring Program shall address the monitoring and analysis of changes made to the state of environment as a result of the project activity and shall clarify reporting requirements and the ways to implement the plan as well as providing the timeline and estimated budget.

9.6 The entity that has performed the general environmental impact assessment shall receive the project implementer's report on the implementation of the environmental management plan within twelve months from the start of the year as well as approving the next year's plan and associated budget.

9.7 The project implementer other than those engaged in mining, smelting and processing of minerals and chemical and coke-chemicals production shall deposit, as a guarantee, a sum in the amount of no less than 50 percent of the total budget of the annual environmental protection management plan in the designated account opened by the local soum or district governor's office for centralizing local environmental protection and restoration funds and shall annually report on the implementation of the plan.

9.8 The project implementer holding a mining license shall deposit, prior to the start of annual project implementation, as a guarantee, a sum in the amount of the total annual budget required for implementation of environmental protection measures in the designated account opened by the state central administrative organization in charge of nature and environment for centralizing environmental protection and restoration funds.

9.9 The guarantee specified in Article 9.7 shall be refunded to the project implementer at the mine closure stage in accordance with a specific schedule if the project is deemed to have satisfactorily complied with the requirements of its environmental impact assessment and implemented annual environmental management plans of the mine operation and upon consideration of the progress the project is making in the implementation of the closure management plan referred to in Article 14.1.3.

9.10 Local rangers, state environmental inspectors, governors of all levels, the relevant state central administrative organization and non-governmental organizations shall monitor the implementation of the environmental management plan and the mine closure management plan.

9.11 If necessary, the entity that has performed the general environmental impact assessment may require that an independent review be commissioned at the expense of the project implementer to review the project's performance in the implementation of environmental management plan and restoration measures and based on the findings of the monitoring referred to in Article 9.10.

9.12 The entity that has performed the general environmental impact assessment shall decide whether the guarantee payment should be refunded to the project implementer upon reviewing the implementation report of the environmental management plan and the findings of the reviews referred in Article 9.10 and Article 9.11 of this Law and as per the procedure outlined in Article 9.13.

9.13 The procedure for monitoring transactions of the designated account for centralising funds for environmental protection and restoration, specified in Article 9.7 shall be approved by the state central administrative organization in charge of nature and environment.

Article 10. Appraisal of detailed environmental impact assessments

10.1 The licensed entity having completed the detailed environmental impact assessments shall submit the detailed environmental impact assessment report and related documents to the entity that performed the general environmental impact assessment within the period specified in the general assessment.

10.2 The expert who has received the report on detailed environmental impact assessment shall appraise the quality of the assessment and issue an opinion within 18 working days. If necessary, the chief assessment expert of the state central administrative organization in charge of nature and environment may exclusively appoint a team of experts to do an appraisal of the assessment report.

10.3 The chief assessment expert of the state central administrative organization in charge of nature and environment may extend the appraisal period specified in Article 10.2 once by 18 days.

10.4 The state central administrative organization in charge of nature and environment shall decide whether the project should go ahead based on the detailed environmental impact assessment report and the opinions of the expert and the Technical Board that have appraised the quality of the report.

10.5 The detailed environmental impact assessment report shall publicized by the project implementer and the professional entity having performed the assessment to the communities likely to be affected by the project.

10.6 Relations that may arise in connection with the establishment of an environmental impact assessment database shall be governed by the Law on Environmental Protection.

Article 11. Review process

11.1 If a project being implemented by a business entity and organizations, that has already undergone a detailed environmental impact assessment, is found to be causing or have caused damage to human health and the environment, the assessment shall be reviewed for accuracy.

11.2 The chief expert of the state central administrative body in charge of nature and environment shall set the deadline for the completion of the review process and appoint on a case-by-case basis a working group of relevant professionals.

11.3 The professional entity having performed the original assessment shall bear the costs associated with the review and the costs shall be to be estimated based on the findings of the review and claimed from the guilty party.

11.4 The legal entity having performed the detailed environmental impact assessment and the project implementer shall make available, without hindrance, documents as may be necessary for the review to the state central administrative body in charge of nature and environment.

11.5 If it is determined by the review that the detailed environmental impact assessment was conducted improperly, then the assessor entity shall be asked to conduct a re-assessment until such time as it meets the requirements. The assessor entity's license to perform further detailed environmental impact assessments for any other projects shall be suspended at the decision of the state central administrative body in charge of nature and environment.

11.6 If it is determined by the review that an additional studies were necessary, then the entity having performed the original assessment shall bear all associated costs.

Article 12. Licensing for conducting detailed environmental impact assessments

12.1 A Mongolian entity having satisfied the requirements outlined in Article 7.5 of the Law on Environmental Protection shall be granted the license specified in Article 15.6.6 of

the Law on Licensing by the state central administrative body in charge of nature and environment.

12.2 An application for the conduct of detailed environmental impact assessments shall be accompanied by the following documents:

12.2.1 Brief introduction about the applicant's activities;

12.2.2. Proof of presence of database and resources necessary for performing such assessments and proof of adequacy and competence of its personnel.

12.3 The Technical Board shall examine the competence of the business entity that has applied for a detailed environmental impact assessment licence pursuant to Article 12.2 of this law and render a decision within 28 working days.

12.4 The entity licensed for conducting detailed environmental impact assessments shall focus its main activity on doing so.

12.5 The state central administrative body in charge of nature and environment shall make a decision on licensing an entity to conduct detailed environmental impact assessments for a period of three years based on the recommendation of the Technical Board.

12.6 The licensed entity wishing to extend its license shall submit, at least 2 months prior to the expiry of the license, its application for an extension together with a report of its completed assessments to the state central administrative body in charge of nature and environment.

12.7 The Technical Board shall review the application, report and other materials regarding environmental impact assessments referred to in Article 12.6 and make a recommendation whether the license should be renewed.

12.8 Based on the recommendation of Technical Board, the state central administrative organization in charge of nature and environment may decide to renew the license for conducting detailed environmental impact assessments for a period of up to three years.

CHAPTER THREE

Rights and obligations of participants in environmental impact assessment

Article 13 Rights of a project implementer

13.1 The project implementer shall enjoy the following rights:

13.1.1 To request for a strategic assessment or an environmental impact assessment to authorised organizations and business entities;

13.1.2 To choose a licensed entity to conduct a baseline environmental assessment, strategic assessment and detailed impact assessment;

13.1.3 To require the entity chosen to conduct the strategic assessment and impact assessment to keep confidential some technique, technology and business related information specific to that policy, program, plan and project.

Article 14. Obligations of the project implementer

14.1 The organizations proposing a program and plan that is subject to a strategic assessment and all project implementers shall have the following obligations:

14.1.1 To furnish documents for the strategic assessment and environmental impact assessment of the proposed project, as may required by authorized agencies and officials;

14.1.2 To report, within the established deadline, the implementation status of the environmental management plan to the local community, local authority, affected parties and the relevant state central organization;

14.1.3 Petroleum and mining projects shall be required to submit, at least three years prior to the project or activity closure, a restoration plan and closure plan to the state central administrative organization in charge of nature and environment after having duly incorporated the comments of the state central administrative organization for the sector.

Article 15. Rights of an entity licensed to perform detailed environmental impact assessments

15.1 An entity licensed to perform detailed environmental impact assessment shall enjoy the following rights:

15.1.1 To request the project implementer to provide documents for conducting the detailed environmental impact assessment as may be required from time to time;

15.1.2 If necessary, to have a free access to the project sites and to take samples;

15.1.3 To monitor the implementation of the environmental management plan which was developed based on the findings of the detailed environmental impact assessment and if necessary, to make recommendations to the relevant state central administrative organizations as to whether the project should proceed.

Article 16. Obligations of an entity licensed to perform detailed environmental impact assessments

An entity licensed to perform detailed environmental impact assessment shall have the following obligations:

16.1.1 may use the opinions presented in previously conducted studies and carry out further studies to confirm the original findings or make a detailed investigation in certain areas.

16.1.2 to revise the original detailed environmental impact assessment report based on the comments on the report;

16.1.3 to ensure accuracy of the findings of the detailed environmental impact assessment;

16.1.4 to keep confidential information regarding the technique, technology and business specific to the proposed project.

16.2 The risks associated with conducting detailed environmental impact assessment by a licensed entity shall be regulated according to the insurance legislation.

CHAPTER FOUR

Miscellaneous

Article 17. Public participation in the process of environmental impact assessments

17.1 The state central administrative organization in charge of nature and environment shall make public via its website information regarding the development programs and plans that are subject to a strategic assessment and the projects that have undergone an environmental impact assessment.

17.2 Public comments may be invited during the process of strategic assessments of national and regional policies that the government plans to adopt and development programs and plans to be implemented.

17.3 The members of public may comment in writing and verbally and shall do so within not more than 30 working days.

17.4 It is the responsibility of the legal entity performing the detailed environmental impact assessment to organize, at the report preparation stage, consultations with and formally seek comments from the local authority, the community that is likely to be affected by the project and local residents living in the area where the proposed project is going to be implemented.

17.5 Public participation may be regulated by a procedure which shall be approved the Minister of Nature and Environment.

Article 18. Liabilities for breach of legislation

18.1 A judge or an authorized state environmental inspector shall impose the following administrative penalties against a person in breach if the offence is not punishable under the Criminal Code:

18.1.1 if a project or an activity proceeded with no environmental impact assessment conducted and with no due permits obtained, the illegal activity shall be halted and proceeds

from the illegal activity shall be confiscated and transferred to the soum and district budget accounts.

18.1.2 if a project do not comply with the requirements defined in the environmental impact assessment report, the project implementation shall be suspended until such time as the remedial actions have been taken and the legal entity guilty of the violation shall be imposed a fine in the amount equivalent to 25-30 times the minimum wage.

18.1.3 if the project proceeded without an environmental management plan or did not implement the plan or failed to report its implementation status on time to the authorized authority, the legal entity guilty of the violation shall be imposed a fine in the amount equivalent to 25-30 times the minimum wage.

18.1.4 If a licensed entity undertook a detailed environmental impact assessment which was later found to have been improperly conducted as determined by a consequent appraisal or a review of the assessment, the entity shall imposed a fine in the amount equivalent to 25-30 times the minimum wage.

Article 19. Compensation for damages

19.1 Damages to the environment from projects implemented without an environmental impact assessment or non-compliance with the requirements of the environmental impact assessment shall be estimated in accordance with the methods approved by the state central administrative organization and the losses compensated by the guilty party.

19.2 Damages to the environment from an improper conduct of a detailed environmental impact assessment shall be compensated by the licensed entity performing the assessment.

SPEAKER OF PARLIAMENT OF MONGOLIA

The Mongolian Law on Environmental Impact Assessment

ANNEX. CLASSIFICATION OF PROJECTS SUBJECT TO GENERAL ENVIRONMENTAL IMPACT ASSESSMENT

| Description | Responsible party | |
|--|---|--|
| | The state central administrative organization in charge of nature and environment | Aimag and capital city Governor's Office |
| 1. Mining projects | Mining of all types of minerals | |
| 2. Heavy industry projects | <ul style="list-style-type: none"> - smelting and processing of minerals; - chemical enterprises; - coke-chemical enterprises; - others | non-profit local mining of common minerals |
| 3. Light industry and food industry | Large enterprises of a national importance | Local small-to-medium sized enterprises |
| 4. Agricultural projects | <ul style="list-style-type: none"> - water reservoirs; - irrigation systems; - virgin land cultivation activities; | <ul style="list-style-type: none"> - local forestry projects; - green spaces and parks |
| 5. Infrastructure projects | <ul style="list-style-type: none"> - power plants of more than 1MW capacity; - electricity transmission lines of 35KW capacity; - thermal transmission lines; - hydropower plants; - railway; - airport; - national and interstate highways; - national and interstate communications; - oil depots; | <ul style="list-style-type: none"> - power plants of up to 1MW capacity; - power transmission lines of up to 35 KW capacity; - local thermal transmission lines; - local roads; - gas station; |
| 6. Services industry projects | - hotels, resorts, spa and other recreational service enterprises with a capacity of more than 50 beds a day | <ul style="list-style-type: none"> - hotels, resorts, spa and other recreational service enterprises with a capacity of up to 50 beds a day; - tourism activities |
| 7. Other projects: - urban development; - projects of military and civil defence purposes; - water supply system; - sewerage system; - landfill sites | <ul style="list-style-type: none"> - water supply and sewerage systems and landfill sites for a settlement with more than 10,000 population; - building premises of military and civil defence purposes and of national importance; | <ul style="list-style-type: none"> - water supply and sewerage systems and landfill sites for a settlement with less than 10,000 population; - building premises of military and civil defence purposes and of local importance; |
| 8. Biodiversity | <ul style="list-style-type: none"> - national large-scale fish farming - introduction and use of wildlife and plants and other related activities; | <ul style="list-style-type: none"> - Hunting and forestry businesses and hunting camps; - fish farms for local use |

| | | |
|---|---|---|
| 9. Industry related to genetically modified organisms | <ul style="list-style-type: none"> - cultivation of genetically modified organisms; - Growing and planting - import and transboundary sale | <ul style="list-style-type: none"> - local plantation of genetically modified organisms; - small-to-medium enterprises such as forestry and restoration using genetically modified organisms; |
| 10. Projects involving toxic chemicals, radioactive substances and hazardous wastes | treatment, use, storage, transportation and disposal of toxic chemicals, radioactive substances and hazardous wastes | |
| 11. Activities within protected areas | Activities in the buffer zone of the protected areas of the state | activities in the locally protected areas |