

GENERAL PROVISIONS

Article 1. Purpose of the law

1.1. The purpose of this law is to regulate duties and functions of the General Council of Courts (hereinafter referred to as "General Council") having the primary mandate to guarantee the independence of the judiciary, the impartiality of judges, and the day-to-day, operation of the judiciary, including its functions, organizational structure, operational principles of the court administration, and regulation of the legal status of court staff.

Article 2. The legislation on court administration

2.1 The Law on Court Administration consists of the Constitution of Mongolia, the Law on the Judiciary, the Law on the Legal Status of Judges, the Law on the Legal Status of Lawyers, the Law on the Civil Service, and other legal acts in compliance with this law.

Article 3. Court administration

3.1 The General Council of Courts (hereinafter referred as "General Council") is the central administrative organization of the courts with exclusive powers and duties to ensure the impartiality of judges and independence of the judiciary set forth in Article 49.3 of the Constitution of Mongolia.

3.2 The administrative offices of courts at all levels, the office of the General Council, the research center, and other supporting units, are mandated to provide organizational, information, research, technological, financial, working conditions, and security services in the adjudication of criminal cases and civil disputes (hereinafter referred as "cases, disputes") by a judge or a judges' panel.

3.3 The Chief and the administrative offices' staff of courts at all levels, the research and supporting organizations, and the Office of the General Council (hereinafter referred as "court administration staff") are appointed in accordance with the Law on Civil Service, which shall have as its primary functions to provide organizational, methodological, and technical assistance in the administration of justice.

Article 4. The operational principles of the court administration

4.1. The General Council and the court administration shall adhere to the following principles in their operations:

4.1.1 Shall be independent and impartial;

4.1.2 Shall not interfere with judicial proceedings;

4.1.3 Shall be specialized and sustainable;

4.1.4 Shall ensure quality and accessible service by courts.

CHAPTER TWO

POWERS AND MANDATE OF THE GENERAL COUNCIL

Article 5. Power of the General Council

5.1. The General Council shall exercise the following powers;

5.1.1. To ensure judicial independence;

5.1.2. To provide administrative services to the courts;

5.1.3 To select judges among legal professionals;

5.1.4 To protect the rights and legal interests of judges.

5.2. The General Council shall exercise the functions set forth in Articles 6-12 of the present law within the power set forth in Article 5.1.

Article 6. Powers of the General Council to guarantee the independence of courts

6.1. The General Council shall exercise the following functions to guarantee the independence of courts:

6.1.1. Develop the courts' budgets for general expenses and capital investments, in accordance with budgeting legislation, to submit budgets and report results directly to the State Great Hural;

6.1.2 Ensure the financial and working condition guarantees of courts;

6.1.3 Develop drafts of legislative acts related to the judiciary, provide comments, submit issues to the Government Cabinet on finance, budget, social protection, and materials supply of the courts;

6.1.4. Submit proposals to the President of Mongolia (hereinafter referred to as "the President")

upon consultation with the Government Cabinet, to locate, set up, establish, or modify, courts (with the exception of the Supreme Court); and to regulate enforcement of any decisions made.

6.1.5. Conduct research, develop recommendations on improving the system and structure of jurisdiction, and submit to the relevant bodies;

6.1.6. Organize necessary actions related to the influence statement of the judges in accordance with the Law on Legal Status of Judges;

6.1.7. Ensure the safety and sanitary conditions of the court premises; to approve and enforce necessary legal acts;

6.1.8. Conduct timely action to ensure the security of the judges and their family members;

6.1.9. Plan and estimate the resources necessary for investment on construction and overhaul of court buildings, special facilities for court hearings, and other facilities that meet required standards, that ensure normal operation of court trials, adversarial principles, openness and security of the courts. Also, to manage the construction plan and cost of facilities and their approval;

Article 7. Powers of the General Council with regard to the administrative management of courts

7.1. The General Council shall exercise the following functions to provide administrative service to the courts:

7.1.1. Approve standards, regulations related to court administration, organization and operation, and ensure their enforcement;

7.1.2. Ensure normal and continuous operation of the courts;

7.1.3. Deliver professional and methodological support to the Administrative Office of Courts;

7.1.4. Appoint or dismiss the Head of Guidance to the administrative units of the court;

7.1.5. Conduct research on the workload of judges and court staff, and take necessary action;

7.1.6. Define and write job descriptions of the court staff, the staff of its own office, and conduct performance evaluations;

7.1.7. Approve regulations for video and audio recordings of court trials, and for archiving the records;

7.1.8. Develop and register the list of names of the citizens' representatives provide them with necessary information, including guidelines on their rights and duties provided in the law; ensure their security, take necessary action to prevent any undue influence, monitor prohibited conduct of the citizens' representatives, and refer to relevant bodies if misconduct exists;

7.1.9. Provide organizational support to the operation of the Judicial Ethics Committee set forth in Article 30 of the Law on the Legal Status of Judges;

7.1.10. Provide organizational support to the operation of the court-based alternative dispute resolution;

7.1.11. Accept and dispose requests and complaints of citizens, inspect and regulate the services provided by judicial organizations;

7.1.12. Cooperate with the Lawyers' Chamber and other organizations within its power jurisdiction;

7.1.13. Regulate budget utilization by allocating running expenses and the capital investment budget of the courts;

7.1.14. Administer and oversee the courts' finance, accounting, and economic operations units;

7.1.15. Develop a general policy on modernization of court equipment and ensure compliance;

7.1.16. Ensure maintenance of hardware, transportation, communication, information, examination and software facilities;

7.1.17. Keep records of registration, stock-taking, ownership, utilization, and conservation of court properties while maintaining their safety and order.

7.1.18. Supply courts with legal information and equipment; hire specialists; and provide repair and renovation services;

7.1.19. Establish centralized systems and network, provide working conditions free from technical disturbances;

7.1.20. Supply courts with official print copies of the laws of Mongolia; organize registration and references of legal acts on a regular basis;

7.1.21. Exercise the following functions regarding case management:

7.1.21.1. Receive and register complaints and court claims; adopt standards and guidelines for trial preparation;

7.1.21.2. Adopt and enforce guidelines for case management;

7.1.21.3. Examine case flow, and adopt general standards for the duration of pre- and post-trial stages;

7.1.21.4. Adopt general standards for formulating a court decree which includes a sample model discussing content and containing an outline, reasoning section, and standards for publishing and archiving of court decisions;

7.1.21.5. Establish a case management monitoring mechanism;

7.1.21.6. Adopt and enforce regulations and guidelines for optimally setting a trial date based on the average trial's duration, to ensure the presence of all parties in compliance with the terms set forth in the law;

7.1.21.7. Register each step of a case in a trial to the database and monitor the entry;

7.1.21.8. Provide information on case management to the courts and the public.

## Article 8. Selection of judges from legal professionals

8.1. The General Council shall exercise the following functions to select judges from legal professionals:

8.1.1. Organize recruitment and registration of candidates for the vacancy of a judge pursuant to the procedure set forth in the law on Legal Status of Judges;

8.1.2. Submit to the President proposals for appointment, rotation, transfer, release, or dismissal of judges;

8.1.3. Oversee the management of the Professional Qualification Committee; appoint or dismiss the head and members of the Committee pursuant to Article 23 of the present law;

8.1.4. Evaluate the process of performance evaluation of judges, develop and enforce the criteria for level of professional qualification;

## Article 9. Protection of rights and legal interests of judges

9.1. The General Council shall exercise the following functions to protect the rights and legal interests of judges:

9.1.1. Undertake actions to protect the rights and legal interests of judges pursuant to the Law on Legal Status of Judges, and take necessary actions in cases of violation;

9.1.2. Prevent and take necessary action in case of undue influence to impartiality and immunity of judges and violation of their rights;

9.2. The General Council shall protect the rights and legal interests of the court staff pursuant to this law and other laws.

Article 10. The human resources of courts

10.1. The General Council shall exercise the following functions regarding the courts' use of human resources:

10.1.1. Oversee the data, research, planning, preparation, allocation and re--appointment of court personnel;

10.1.2. Regulate hiring and deployment of personnel based on the courts' research on human resource demand;

10.1.3. Set the number court staff and administrative office personnel as well as the number judges' assistants;

10.1.4. Organize training, retraining, and professional development of judges and staff of the court offices in cooperation with the Lawyers' Chamber, State Service Council and other training institutions;

10.1.5. Determine and enforce the criteria and regulations for evaluating the professional knowledge, skills, and qualification level of judges and other staff;

10.1.6. Nominate court staff for professional rank, state awards and honorary titles;

Article 11. Court information

11.1. The General Council shall provide information to the courts in the following manner;

11.1.1 Release statistical data of courts and crime;

11.1.2 Research, develop, and release the general statistical reports of courts;

11.1.3 Survey the practical trends of trial procedure and court administration;

11.1.4. Establish a court database in electronic and other forms;

11.1.5. Create, update, and execute utilization of an inventory of books, research on legal theories, and practical studies.

Article 12. Public information

12.1. The General Council and the Court Administration Office shall provide information to the public in the following manner:

12.1.1. Provide information on a regular basis through website and media on performance of the mandates to guarantee judicial independence, court administration, selection of judges, and protection of rights of judges;

12.1.2. Upload court decisions to the courts' websites and publish on a regular basis;

12.1.3. Update the courts' websites on regular basis;

12.1.4. Provide information on court activities and completed cases to the public;

12.1.5. Organize information and referral services for the public;

12.1.6. Receive comments and inquiries on a court's performance;

CHAPTER THREE

COMPOSITION AND STRUCTURE OF THE GENERAL COUNCIL OF COURTS

Article 13. Composition and term of office of the General Council of Courts

13.1. The General Council shall be composed of the Chief of the General Council and four members.

13.2. The Chief and members of the General Council shall serve on a full-time basis.

13.3. The President shall appoint or terminate the Chief and members of the General Council for a term of up to three years with renewal for an additional term.

13.4. Proposals for General Council candidates shall be submitted to the President upon nomination by the judge's panel of each court, and by an open ballot from each of the primary courts, appellate courts, and the Supreme Court.

13.5. The President shall appoint the Chief of the General Council. The nomination and appointment procedure shall be regulated by law.

13.6. In case of termination of term of the Chief or a member or release prior to term, a new candidate shall be nominated to the President within 30 days of the vacancy by the respective body.

Article 14. The organizational structure of the General Council of Courts

14.1. The General Council shall have departments and divisions structured with distinctive roles and functions.

14.2. The General Council shall have the power to determine its structure and organization.

14.3. The General Council shall have its own office.

14.4. The General Council shall use a seal with the state stamp and a letterhead made in accordance with prescribed rules.

Article 15. Sessions and decisions of the General Council

15.1. The General Council's primary form of operation shall be the Council session.

15.2 The General Council shall consider matters pertaining to its competence at meetings and render resolutions by majority vote of participating members pursuant to Article 15.1.

15.3. General Council sessions shall be held twice a month at minimum.

15.4. The General Council shall set the bylaws of its meetings.

15.5 Special sessions of the General Council shall be held at the Chairman's suggestion or at the request of 1/3 of its members.

15.6 The session of the General Council shall be valid with a quorum of the majority of its members.

15.7 In case of the absence of a quorum set forth in Article 15.6, the session of the General Council shall be renounced. The subsequent session shall be valid without a quorum.

15.3. Resolutions of the General Council set forth in Article 15.6 shall be valid upon official signing by the Chairman and affixing a seal.

Article 16. Qualifications required of the Chairman and members of the General Council

16.1. A member of the General Council is required:

16.1.1. To be a Mongolia citizen;

16.1.2. To have a legal education;

16.1.3. To have minimum of 5 years professional experience;

16.1.4. To have no criminal record;

16.1.5. To have high integrity and ethics;

16.1.6. To have the ability to independently evaluate others' qualifications, skills, and knowledge without undue influence;

16.1.7. To be non-partisan.

16.2. The Chief of the General Council shall meet the following requirements in addition to the requirements set forth in Articles 16.1.1, 16.1.2, 16.1.4-16.1.7 of this law:

16.2.1. To have a minimum of 10 years professional experience;

16.2.2. To have managerial experience.

Article 17. Powers of the Members of the General Council

17.1. Members of the General Council shall exercise the following powers:

17.1.1. Oversee the particular functions of the General Council;

17.1.2. Propose specific issues for consideration at the General Council sessions;

17.1.3. Participate in the General Council sessions with voting rights;

- 17.1.4. Ensure the implementation of the General Council decisions;
- 17.1.5. Call for a General Council session;
- 17.1.6. Exercise other powers as afforded by the legislation.

#### Article 18 Powers of the Chairman of the General Council

18.1. Chairman of the General Council shall have the following powers:

- 18.1.1. To manage the operations of the Office of the General Council;
  - 18.1.2. To represent the General Council, to communicate with the President, the State Great Khural, the Government cabinet, as well as other agencies and officials on issues of the competence of the General Council;
  - 18.1.3. To represent the official position of the General Council, address relevant issues at the general sessions, the Standing Committee sessions of the State Great Khural, and the Government cabinet sessions;
  - 18.1.4. To convene and preside over the General Council meetings and undertake measures to implement the General Council's decisions;
  - 18.1.5. To monitor implementation of the General Council's decisions;
  - 18.1.6. To appoint and release the heads and personnel of the office of the General Council;
  - 18.1.7. To appoint and release the chief of court administration and other departments;
  - 18.1.8. To oversee expenditure of the court budget;
  - 18.1.9. To report annually to the President on the performance of the General Council;
  - 18.1.10. To introduce annual reports to courts at all levels;
  - 18.1.11. To nominate a candidate to the President to fill the vacancy of a member of the General Council within 10 working days of the arisen circumstance on the grounds to release or dismiss as set forth in Article 19;
  - 18.1.12. Such other powers as afforded by the legislation.
- 18.2. In exercising these stipulated powers the Chairman of the General Council shall enjoy guarantees equivalent to a member of the Government Cabinet.
- 18.3. In the absence of the Chairman of the General Council a senior member shall be designated as Acting Chairman.

#### Article 19. Termination of powers of the Chairman and members of the General Council

19.1. The Chairman and member of the General Council shall be released on the following grounds:

- 19.1.1. Expiration of term;
- 19.1.2. Attaining the retirement age or unable to exercise power due to health or other reasons;
- 19.1.3. Submitting own request to resign, or appointment, election, or transfer to another job.

19.2. The Chairman and members of the General Council shall be dismissed on the following grounds:

- 19.2.1. Repeated absence from the sessions without valid reasons;
- 19.2.2. Engaging in ethical misconduct;
- 19.2.3. Finalizing of a court judgment finding the member guilty of a criminal act;
- 19.2.4. If the nominating court deems the request to revoke the member valid.

### CHAPTER FOUR THE COURT ADMINISTRATION ORGANISATION

#### Article 20. Administrative Office of Courts

- 20.1. Courts at all levels shall have an administrative office.
- 20.2. Court Administrative Offices at all levels shall report to the General Council.
- 20.3. The General Council shall determine the organizational structure and number of court administrative office staff based on workload as well as the specific conditions of each court.
- 20.4. The General Council shall determine the common rules of operation of the administrative offices of courts.

20.5. Administrative department of courts shall use its own seal, stamp, and printed letterhead.

Article 21. Functions of the Administrative Department of Courts

21.1. The Administrative Department shall perform the following functions:

21.1.1. Execute functions set forth in Articles 6-12 of this law in the respective court

21.1.2. Ensure normal conditions for day-to-day operation of the court.

21.1.3. Monitor implementation of the bylaws and internal regulations;

21.1.4. Receive and register cases in the court,

21.1.5. Establish rules of maintenance and use of documentation, case records, and archives;

21.1.6. Ensure normal functioning of the court's equipment and facilities;

21.1.7. Maintain and transport case evidence

Article 22. Powers of the Chief of the Administrative Office of Courts

22.1. The Chief of the Administrative Office of Courts shall exercise the following powers:

22.1.1. Manage day-to-day activities of the Court Administration Office;

22.1.2. Appoint and release staff officers of the Court Administration

22.1.3. Spend the approved court budgets and report on expenditures;

22.1.4. Introduce activity reporting to the respective courts

22.1.5. Exercise such other powers as afforded by the legislation.

22.2. The Chief of the Court Administrative Office shall report to the General Council.

22.3. The Chief Judge or Judges shall not replace the Chief of the Court Administrative office.

Article 23. The Judicial Qualification Committee

23.1. The Judicial Qualification Committee (hereinafter referred to as "Qualifications Committee" ) shall be the only one in the nation.

23.2. Qualifications Committee shall be formed by the General Council with 9 non-full time members for a term of three years.

23.3. Qualifications Committee shall be comprised of highly-qualified and specialized judges, lawyers and scholars with legal and judiciary experience.

23.4. Judges, prosecutors, attorneys, members and staff of the General Council and the court administration, shall not also be members of the Qualifications Committee.

23.5. The Chairman of the Qualifications Committee shall be elected by the General Council, from its members, upon the vote of its members.

23.6. Qualification Committee shall exercise the following powers:

23.6.1. Evaluate qualifications of candidates for the position of a Judge or Chief Judge pursuant to the Law on Legal Status of Judges and in accordance with the regulations and criteria set forth by the General Council;

23.6.2. Evaluate qualifications and professional skills of a judge set forth in Article 9.3 of the Law on Legal Status of Judges and in accordance with the guidelines adopted by the General Council.

23.7. The evaluation conclusions made on a candidate's legal knowledge and working skills set forth in Article 23.6.1 is valid for two years. The evaluation conclusions shall serve as grounds for initiating a removal by the the General Council.

23.8. The rules of the Qualifications Committee shall be approved by the President upon recommendation by the General Council.

23.9. Members of the Qualification Committee shall be impartial and shall abstain from any ethical misconduct such as a conflict of interest and taking illegal advantage.

23.10. The General Council shall approve and enforce the code of ethics and conflict of interest sanctions of the Qualifications Committee.

23.11. Members of the Qualifications Committee shall be prohibited from conducting the following activities:

23.11.1. Interfering with judicial conduct;

23.11.2. Having undue influence over judges;

23.11.3. Disclosing information on the qualifications, evaluation of the candidates, and qualification exam, and publicly announcing his/her position on a particular candidate;

23.11.4. Changing the evaluation results of a candidate.

23.12. The General Council shall provide necessary working conditions for the Qualification Committee.

Article 24. Research and information organisation of the court

24.1. The General Council shall have an organizational unit for judicial research and court information to provide support in the execution of the functions set forth in Articles 11 and 12 of this law.

24.2. The General Council shall determine the duties, structure, personnel, rules of procedure, and undertake their measures for their implementation and enforcement.

24.3. The General Council shall appoint or remove the Head of the Research and Information organisation.

## CHAPTER FIVE.

### LEGAL STATUS OF STAFF OF COURT ADMINISTRATION

Article 25. Staff of court administration

25.1. Staff of court administration shall be composed of an assistant to the judge, a court secretary, and staff of the administrative office of the court.

25.2. The staff of the court administration shall meet the following requirements:

25.2.1. Is a Mongolian citizen;

25.2.2. Meets qualifications and requirements set forth in the law on Civil service and other laws;

25.2.3. Has no criminal records;

25.2.4. Meets ethical requirements set forth in this law;

25.2.5. Possesses the education, expertise, and experience required for the position.

Article 26. Assistant to judge

26.1. The Judge shall have an assistant.

26.2. The judge's Assistant shall exercise the following functions under the judge's guidance:

26.2.1. To study case evidence and report to the judge;

26.2.2. To execute tasks assigned by judges related to adjudication of cases;

26.2.3. To provide administrative assistance to judges;

26.2.4. To assist judges in preparing reference information on legal acts and other information necessary for the adjudication of cases;

26.2.5. To fill out case files;

26.2.6. To upload information on court cases to the unified electronic database;

26.2.7. To take part in preparation and organization of court hearings;

26.2.8. To prepare a draft of the court ruling and judge's decree;

26.2.9. To monitor payment of the stamp fee and other fees;

26.2.10. Exercise such other powers as assigned by law and job description.

Article 27. Court secretary

27.1. Courts of all levels shall have a court secretary.

27.2. The Court secretary shall exercise the following functions under the guidance of the judge presiding over the court hearing:

27.2.1. To organize technical and organizational preparation of court hearing;

27.2.2. To conduct the official protocol of a court hearing;

27.2.3. To conduct audio and video recording of court hearing;

27.2.4. To introduce protocol of court hearing to the parties within the time period specified in the law, get authorization on the protocol by the judges, and attach to the case file;

27.2.5. Exercise other functions set forth in the job description approved by the General Council.

Article 28. Staff of the court administration

28.1. The General Council shall determine the functions of staff of the courts' administrative offices pertaining to court management, information, finance, archive, paper processing, security, and technical services.

28.2. The staff of administrative offices of courts shall exercise the general rights and duties set forth in the law on Civil Service as a civil servant and the specific rights and duties set forth in the respective procedural legal acts in addition to the functions specified in this law.

Article 29. Ethics of court administration staff

29.1. Court administration staff shall comply with the following ethics requirements in addition to the general ethical rules of civil servants set forth in the law on civil service:

29.1.1. Shall not provide any professional assistance to parties or interested parties and not mediate between parties by any means;

29.1.2. Shall not represent personal conclusions or hypotheses on the cases adjudicated by the court;

29.1.3. Shall not have personal relations with parties to the case;

29.1.4. Shall not conduct misconduct or misbehavior that affects the reputation of courts during non-working hours;

29.1.5. Shall be respectful of their judiciary duty, and have good manners in the office and in public.

Article 30. Rules for complaint procedure for ethical misconduct

30.1. Any individual may lodge a complaint on the ethical misconduct of staff of court administration to the Chief of the administration office of court.

30.2. If deemed valid, the ethical misconduct of court administration staff shall be subject to disciplinary action by the respective authority in accordance with law on Civil service and Law on Labor.

Article 31. Professional development of court administration staff

31.1. Staff of court administration shall enroll in the regular professional development trainings organized by the General council.

Article 32. Enforcement of the Law

32.1. The Law on the General Council of Courts shall come into effect on ..... (day)... (month) ..... (year).