

# LAW OF MONGOLIA ON REGISTRATION OF IMMOVABLE PROPERTY

## Chapter One General Provisions

### Article 1. Purpose of the law

The purpose of this law shall be to determine the legal status of the registration by immovable property organization and to regulate matters relating to the registration and protection of rights of ownership of immovable property, other than property owned by the State and local property for public use.

### Article 2. Legislation on registration of immovable property and scope of the law

1. Legislation on registration of immovable property is comprised of the Civil law, this law and other relevant legislation which are consistent with them.
2. If an international treaty to which Mongolia is a party is inconsistent with this law, then the provisions of the international treaty shall prevail.
3. Any property situated in the territory of Mongolia, being property with certain boundaries measurable by actual and abstract methods, such as land and buildings which would lose their purpose and economic value if separated from land, and plants and perennial herbs, except land which buildings owned by the state and local property for public use, shall be registered at the Registration Office in accordance with the paragraph 3 of Article 77 of the Civil law.
4. An immovable property in the ownership, possession and use of a person or legal person of Mongolia in the territory of a foreign country may be registered at the Registration Office.

### Article 3. Rights of ownership, possession and use of immovable property

1. Subject to the provisions of the law, the right of a person or legal person to own the immovable property arises upon the registration at the Registration Office.
2. A agreement to transfer of immovable property to the ownership, possession and use of another person shall be valid upon the registration at the Registration Office, and the rights of ownership, possession and use of the immovable property shall then arise as provided by of the agreement.

### Article 4. Access principle concerning information in the Register

The information in the Register of immovable property is open for a public inspection unless prohibited by law.

### Article 5. The Registration Office

1. The office for registration of immovable property (hereinafter referred to as the "Registration Office"), which is within the framework of functions of the Minister of Justice, shall be responsible for the registration of immovable property.

2. The legal status of the Registration Office shall be determined in accordance with this law and other relevant legislation.
3. If it is not provided otherwise in the law, only the Registration Office stated in the paragraph 1 of this Article shall be responsible for the state registration of immovable property.

#### Article 6. Duties of the Registration Office

The Registration Office shall have the following duties:

- 1) to inspect and make proper decision in relation to applications for registration of immovable property;
- 2) to register immovable property and issue Certificates of State Registration of Immovable Property;
- 3) to maintain a register containing records relating to immovable property and agreements with regard thereto, including agreements of transfer and collateral agreements;
- 4) to provide to authorized persons, in accordance with the relevant procedure, such information and reference relating to immovable property as is considered;
- 5) to compile, maintain and protect the Register of Immovable Property and agreements with related to immovable property;
- 6) to maintain archives of documents on registration of immovable property;
- 7) to deposit the land cadastral map with its dimensions and other required criteria as an Annex to the registrations; and
- 8) such other duties as are provided for by law.

#### Article 7. Organizational structure of the Registration Office

1. The Registration Office shall have local branches for the registration of immovable property.
2. The Government shall approve the rules of the Registration Office and procedures for the work of the State Registrar.
3. The registration of immovable property shall be carried out by the State Registrar. The State Registrar shall have an Assistant Registrar.
4. The Registration Office may have a division whose functions are to control the cadastral measurement and land valuation.
5. The Minister of Justice shall approve the form of the State Registry book, stationary (letterhead) and the Certificate form of the State Registration of Immovable Property.

## Article 8. Registration duties and service fees

1. Stamp duty shall be paid upon the registration of immovable property in accordance with the procedure of this law.
2. Immovable property transferred from the State after proper payment in accordance with the procedure of the law shall exempt from stamp duty stated in the paragraph 1 of this Article.
3. A service fee shall be paid for the registration of agreements to transfer the rights in relation to immovable property and for copying of registration documents.
4. The Government shall establish procedures relating to service fees and their disposal.

## **Chapter two Registration of immovable property**

### Article 9. Application for the registration of immovable property

1. Persons of Mongolia, legal persons and/or their legal representatives shall submit an application for the registration of immovable property (hereinafter referred to as the "Application") to the related Registration Office where the immovable property is located.
2. A single application shall be submitted for the registration of immovable property under joint ownership. The application shall contain written consent of each applicant.
3. Each owner of an immovable property in partial ownership shall independently submit the application for registration of the part to which he/she is entitled.
4. A single application shall be submitted for the registration of an immovable property, which forms and is used as complex.
5. An application for registration shall contain the items listed in the paragraph 1 of Article 12 and shall the following documents have attached to it:
  - 1) a document certifying the applicant's right to ownership of the immovable property; and
  - 2) a document by a competent authority setting out the dimensions and valuation of the property.
6. The documents attached to the application shall be certified by a Notary.
7. An applicant shall have the right to withdraw the application before his/her immovable property is registered at the Registration Office. The procedures for withdrawal of the initial application shall be same as for an application for registration.

8. If the applicant is a non-permanent resident of Mongolia, he/she shall make the application for registration or withdraw an application through an authorized representative who is a permanent resident of Mongolia, and certified to be so by a Notary.

#### Article 10. Refusal to accept an application

1. The Registration Office may refuse to accept an application if it is not complete or there is a dispute in regards to the ownership and possession of the immovable property.

2. Where the Registration Office refuses to accept an application, it shall inform the applicant officially of the reasons for the refusal, and shall return the documents supplied by the applicant.

#### Article 11. Procedure relating to registration

1. The Registration Office shall decide whether to register or not to register and make verification on immovable property within 30 days from the application date.

2. The State Registrar shall verify the application and decide whether it complies with the requirements set out in Article 9 of this law. If the State Registrar considers that all such requirements have been met, he/she shall register the property on the date of the receipt of the application.

Following a decision to register, the Assistant Registrar shall enter in the Register record of the registration of immovable property, which shall be endorsed by the State Registrar and the Assistant Registrar.

3. If the Registration Office makes an incorrect registration, it shall be responsible for its correction and invalidation.

#### Article 12. Registration of immovable property

1. Each immovable property except that of the kind referred to in paragraph 2,3,4 of Article 9 of this law shall be registered separately at the State Registration of immovable property (hereinafter referred to as the "State Registration"), and the following shall be recorded in the Register:

- 1) the location, dimensions and purpose of the immovable property;
- 2) the given name, surname, residential address and signature of immovable property's owner, and the registration number of his/her passport;
- 3) if the owner is a legal person - its name, addresses, the number of the State Registration, the given name and surname of a person authorized to represent the legal person and dispose the immovable property, his/her residential address, the registration number of his/her passport and signature;
- 4) the legal grounds for the registration of immovable property;

5) notes on the transfer to the ownership, possession or use by others and/or used as a collateral;

6) the date of the application;

7) notes and justification for cancellation of the State Registration; and

8) the given name and surname of the Notary who certified the relevant documents.

2. In the case if the registration of an agreement for the transfer of the immovable property of a legal person to the ownership, possession and use of others carried out by an authorized representative, the authorization shall be signed and stamped by the executive officers, accountant (or their representatives) and certified by a Notary.

#### Article 13. Certificate of the State Registration of Immovable Property

1. The Certificate of the State Registration of Immovable Property (hereinafter referred to as "Registration Certificate"), which confirms the State registration of immovable property and the legal owner thereof, shall be issued to the owner.

2. The Registration Certificate shall be issued by the State Registrar. The procedure for issuing of the Registration Certificate shall be determined by the Minister of Justice.

3. Where a Certificate in respect to an immovable property was issued by a State Authority prior to the State Registration, the State Registrar shall confirm the legal ownership by an appropriate note in the Registration Certificate.

#### Article 14. Amendments to State Registration

1. Appropriate amendments to the State Registration shall be made where:

1) an immovable property has been transferred to the ownership, possession and use of another person or legal person pursuant to the agreement;

2) the owner or possessor of an immovable property has changed by virtue of the decision of a competent authority; or

3) the dimensions of the immovable property have changed.

2. Prior to any amendments to the State Registration, the consents of persons, legal persons and/or State competent authority whose rights may be infringed as a result of such amendments shall be obtained. The consent of a person and legal entity shall be certified by a Notary.

3. If an immovable property have been transferred to another person or legal entity, a record of this shall be made at the Registration Office, and a Registration Certificate shall be issued to the new owner.

4. All amendments to State Registration shall be recorded in the Register.

#### Article 15. Special records

The Registration Office shall make a special record in its books in the following cases:

- 1) if a court has declared the owning legal entity insolvent;
- 2) if a court has made a decision on asset recovery against the owner; or
- 3) if a court has made a decision of legal disability against an owner, has declared an owner a spendthrift or has announced the death of an owner.

#### Article 16. Preliminary records (caveat)

1. If requested by the buyer or successor to an immovable property, the Registration Office shall make a preliminary record (enter a caveat), to protect the rights of the buyer or successor.
2. If the buyer fails to fulfill his/her obligations, the owner of the immovable property shall have the right to apply to the Registration Office for the removal of the preliminary record (caveat).
3. If the owner desires to dispose of the immovable property during the effective period of the preliminary record (caveat), the owner shall obtain a written consent of the person who requested the preliminary record (caveat) to be made. The consent shall be certified by a Notary.

#### Article 17. Cancellation of registration

Following an application with relevant documents attached, the Registration Office shall cancel registration of an immovable property and the Registration Certificate in the following cases:

- 1) if the immovable property in Mongolia is destroyed;
- 2) if the immovable property in the territory of a foreign country is destroyed; or
- 3) if the ownership right of the property is terminated.

### **Chapter three** **Registration of Collateral agreements and transfers to others the ownership, possession and use of immovable property**

#### Article 18. Registration of agreements related to immovable property

1. The owner shall apply for the registration of an agreement to transfer an immovable property to the ownership, possession and use by others within such period of time as is provided by this law.
2. The registration of an agreement to transfer (hereinafter referred to as the "Agreement") of immovable property to ownership, possession and use by others shall give legal effect to the transfer in accordance with the terms set forth in the law.

3. The Agreement shall be enforceable in accordance with the provisions and procedures set forth in the Civil law.

4. The registration of an agreement shall record the following:

- 1) Type of Agreement and content of the obligations;
- 2) Parties to the agreement and their rights;
- 3) Articles of the Agreement, the definition and criteria;
- 4) Duration of the Agreement;
- 5) Agreement price and
- 6) the validation period of the Agreement and its justification.

Article 19. Registration of a collateral agreement of immovable property

1. A collateral agreement relating to an immovable property shall be registered in accordance with the procedures provided in this law.

2. The Registration of a collateral agreement relating to an immovable property shall contain the following:

1) the given name, surname, residential address and registration number of the passport of mortgagor, mortgagee and the guarantor;

2) the mortgaged items and their definition; and

3) the content of the mortgage obligations, the duration of the mortgage and the agreement price.

3. Each collateral agreement shall be separately registered with State in accordance with the provision of this Article if several mortgages co-exist towards an immovable property. The priority for releasing monies under the pledge shall be given by the date of the State registration of the collateral agreement.

Article 20. Records of registration of agreements and changes in agreements on immovable property

1. The Registration Office shall record the registration of an agreement in its books.

2. The Registration Office shall also record any changes in the parties to the agreement or their rights and duties and/or the termination of an agreement.

3. Records regarding the agreement shall be closed if the agreement is terminated.

#### **Chapter four Miscellaneous**

Article 21. Auction

If a court decides that an immovable property is to be auctioned, then the Registration Office shall organize the auction, and it shall be conducted by the court decision enforcement office in accordance with the Law on the Court Decision Enforcement.

## Article 22. Dispute resolution

A court shall settle disputes arising from the registration of immovable property.

## Article 23. Liabilities for infringement of legislation on registration of immovable property

1. If an infringement of the legislation on the registration of immovable property is held not to constitute a criminal offense, the following administrative penalty shall be imposed on an offending person:

1) for concealment of immovable property from registration, decreasing its valuation or dimensions, or infringement of the registration procedures set out in this law, the State Registrar shall impose on an offending person, a fine of 5,000 to 30,000 togrogs, or on an offending executive, a fine of 15,000 to 60,000 togrogs, or on an offending legal person a fine of 50,000 to 250,000 togrogs;

2) for infringement of the procedures of this law by an officer of the Registration Office, the judge shall impose a fine of 30,000 to 60,000 togrogs.

2. Compensation for damages suffered as a result of the infringement of the legislation on the registration of immovable property shall be effected in accordance with the Civil law.

3. If the owner of the immovable property fails to have it registered within 5 years from the date of the coming into force of this law, then the fee payable for registration of the immovable property shall be increased 10 times.

## Article 24. Coming into effect

This law shall come into effect from 1 May 1997.

Chairman of the State Ih Hural of Mongolia

R. Gonchigdorj