



## The Purpose and Use of Roads and Roadway Facilities in Mongolia

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### The Purpose and Use of Roads and Roadway Facilities in Mongolia

The Road Law which was enacted by the Parliament of Mongolia on 11 May 2017 regulates the passage, construction, possession and use of road facilities such as roads built for vehicles, bike lanes, and sidewalks, bridges and tunnels intended for pedestrians. A “road” may either be a paved road or a usual dirt road consisting of pathways, edges, strip areas, special lanes, and roadway facilities. The Road Law defines “roadway facilities” as various types of bridges, overpass, bridge exits, roads intended for bikes, pedestrians and disabled persons, water drainage systems, ditches, tunnels, traffic management and safety devices, fee collection areas, parking areas, and other facilities. Roads have the following purposes:

- a) Roads for international use;
- b) Roads for state use;
- c) Roads for regional use;
- d) Roads for capital city use;
- e) Roads for special use; and
- f) Internal roads for the use of business entities and organizations.

According to the Road Law, a citizen and a legal entity (regardless of its ownership form) are road “users” and possesses the following rights and responsibilities in relation to the proper use of roads and roadway facilities:

- a) To use roads and roadway facilities without any fees other than that required by law;
- b) To file a complaint or demand to the relevant authority or official in relation to the maintenance and repairs of roads, and traffic safety;
- c) To request compensation for any losses incurred as a result of the fault of the authority responsible for the maintenance and repairs of the road;
- d) To immediately notify the authority responsible regarding any serious damage or violation on the road which may cause harm to others;



- e) To obtain permission from the organization in possession of the road in the event of performing actions that affect the normal state of the road such as severing the road, or creating entrances or exits in order for the necessary construction of facilities and extensions to roads. Upon completion of the road work, the normal state of the road must be restored and handed over.

A road user must not damage the road or roadway facilities, alter the structure of the road without permission from the relevant authority, or litter, pour water, leave rocks or metallic items on the road, or impede traffic, or place any address or advertisement boards or items that may restrict road visibility. Pursuant to the Law on Violations<sup>1</sup>, a citizen committing the violation would be fined MNT 150,000 and a legal entity committing the violation would be fined MNT 1,500,000.

On the other hand, if inspection authorities determined that any losses incurred by business entities, organizations or citizens were due to the road's failure to satisfy necessary conditions, then the authority responsible for the maintenance and repairs of the road shall be responsible for the loss and provide the necessary compensation.

The purpose of the road may be changed with permission from the Ministry of Road and Transportation Development. As of now, no detailed regulation has been approved in relation to changing the purpose of roads.

### **The Construction and Use of Special Purpose Roads and the Internal Roads of Business Entities and Organizations**

Although the Road Law defines a “special purpose road” as a road used for special transportation services, the transportation type or item is not specified. The “Regulation on the Construction and Use of Special Purpose Roads and Roadway Facilities” approved by the schedule of Government Resolution no. 379 of 2018 is followed in relation to the construction, direction approval and use of special purpose roads and roadway facilities. It can be seen from the regulation that the location of a mineral deposit or mine is the main factor for special purpose roads. As of today, 7 types of roads and roadway facilities are being used as special purpose roads in Mongolia. These include the Ukhaakhudag to Gashuunsukhait port road in Umnugobi aimag, Tsogtsetsii soum and the “Erdenes Tavantolgoi” JSC mine to Ukhaakhudag-Gashuunsukhait road<sup>2</sup>. In addition, a road may be regarded as a special purpose road depending on a request made by business entities to transport mineral products, people and animal migration, and the unique qualities of the area<sup>3</sup>. In the event the business entity submits its request to construct a special purpose road to the Ministry of Road and Transportation Development, the unique qualities of the region and the type of the previous road would

<sup>1</sup> The Law of Mongolia on Violations, enacted by the Parliament of Mongolia on 11 May 2017, as amended.

<sup>2</sup> “The List of the Names and Number of Special Purpose Roads” approved by the schedule of order no. 272 of the Minister of Road and Transportation Development dated 29 August 2019,

<sup>3</sup> “The Regulation on the Construction and Use of Special Purpose Roads and Roadway Facilities” approved by the schedule of resolution no. 379 of the Government in 2018,

be considered and a decision regarding the construction of a special purpose road would be made in accordance with the Regulation on the Construction and Use of Special Purpose Roads and Roadway Facilities. With a decision being made to construct a special purpose road or roadway facility, the Ministry of Road and Transportation Development would enter into a construction and use agreement with the business entity. The performing party must handover the performed work within the contract period. The “Regulation on the Commencement, Continuation and Acceptance of the Construction of Roads and Roadway Facilities” approved by the schedule of Order no. 49 of the Minister of Road and Transportation Development in 2018 would be followed when commencing the construction of roads or roadway facilities, or opening the roads or roadway facilities for use. The construction work must be carried out by a licensed legal entity. During the construction work, a licensed legal entity must carry out supervision over the technical equipment and technology. The Road Law contains a special regulation, which requires the legal entity that carried out the construction work and the legal entity that carried out supervision over the technical equipment and technology to provide a three-year warranty over the newly built road or roadway facility.

Although special purpose roads are under the possession of the state, business entities may obtain possession over the road by entering into an agreement with the Ministry of Road and Transportation Development. In accordance with the Road Law, the business entity would be responsible for the repairs and maintenance of the roads and roadway facilities. The possessor of the special purpose road or roadway facility must consult with the Ministry of Road and Transportation Development before allowing other business entities or citizens to use the road or roadway facility through a contractual agreement. In the event a decision to allow others to use the road or roadway facilities is made, the business entity may request the payment of road use fees which do not exceed the tariff approved by the Government. In addition, citizens or legal entities that regularly use the road or roadway facilities for passage or transportation may pay the road use fee in advance upon entering into an agreement. In this situation, regulations stipulate that a discount of 30 percent must be provided<sup>4</sup>.

Also, there is an additional common requirement in relation to the use of roads, which is the load capacity requirement for cargo transportation. Pursuant to Article 29.3.5 of the Road Law, any vehicle that exceeds the specified load, size and capacity of the road is prohibited from using the road without the necessary special protective measures or permission. For example, 65-115 tones (the weight of the vehicle included) of cargo is allowed to be transported<sup>5</sup> on special purpose roads.

An “internal road” is defined as a road of the business entity or organization, which was built on the land in which it possesses (land that the business entity or organization possess or uses) for its internal use. For instance, companies that possess a mining license build roads on the mining site, the land in which it possesses to transport minerals. In addition, parking lots and other similar facilities in apartment complexes are stated as “the environment’s area”, but is categorized as an internal road of

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<sup>4</sup> “The Regulation on Road Fees of Roads for International and State Use, and Special Purpose Roads and Roadway Facilities” approved by the schedule of order no. 274 of the Minister of Road and Transportation Development in 2018,

<sup>5</sup> MNS 6278 : 2011 Heavy Load Vehicles, Technical Conditions approved by regulation no. 51 of the National Standardization Committee of Mongolia in 2011.

a business entity in terms of its purpose. Apartment owners must perform their responsibilities as road and roadway facility users under the Road Law, when possessing and using the environment's area.

However, when constructing, using or assigning roads or roadway facilities through a concession agreement, the Concession Law<sup>6</sup> would apply. For instance, there are plenty of opportunities for a road construction-use-assignment concessionaire to make up its investment by collecting road use fees which do not exceed the tariff approved by the Government or the tariff stated in the concession agreement from road users.

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<sup>6</sup> The Law of Mongolia on Concession, enacted by the Parliament of Mongolia on 28 January 2010, as amended from time to time.

