

LAW OF MONGOLIA

NOVEMBER 10, 2011

GOVERNMENT HOUSE, ULAANBAATAR

LAW ON THE AUTOMATED SYSTEM OF ELECTIONS

CHAPTER I. GENERAL PROVISIONS

Article 1. Purpose of this Law

The purpose of this law is to set the principles and regulate usage of the automated election system [ASE]in the course of Parliamentary, Presidential, and Local elections and referenda in Mongolia and during the vote count; and to regulate relations arising from using thereof.

Article 2. Law on the ASE

[Legislation on the] ASE comprises the present law and other legislative acts set forth in compliance with this law.

Article 3. The legal basis for using of the ASE

The legal basis for using of the ASE comprises the Law on the Election of the President of Mongolia, the Law on nationwide referendum, the Law on the General election commission [GEC], the present law and other legal acts set form in accordance with the afore laws and resolutions of the GEC.

Article 4. Definitions

4.1 Terms used in the present law shall be understood as follows:

4.1.1 “Automated system of elections” is the entirety of electronic information [technology] hardware, software, human resources, funds for preparation and conduct of elections according to the law, and automated information systems, which perform informational processes during preparation to and conduct of elections and referenda;

4.1.2 “Personal data of the voter” is the data allowing to establish the personality of the citizen contained in the ID as prescribed by the law, a photo, and unique physical data (fingerprints)

4.1.3 “Automation media complex” is the entirety of inter-related software and hardware media that allows collecting, processing, accumulating, storing, searching for and transferring of information

4.1.4 “Information processes” are processes of collecting, processing, accumulating, storing, searching for and transferring of information by using complexes of the automation media

4.1.5 “IT administrator” is a specialist ensuring normal operation of the complex of the automation media and usage thereof at the election administration of the relevant level

4.1.6 “Electronic key” is a key received as the result of a cryptographic change in data that has digital and silhouette form and allows the owner to use the complex of the automation media or any part thereof, access information, and work with electronic or any other documentation stored in the electronic fund.

4.1.7 “Digital signature” is a signature performed with an electronic key on the requisite of the electronic document that is signed by means of automated election system

Article 5. Basic principles of using the ASE

5.1 The ASE shall be used according to the following principles:

5.1.1 Ensuring consent of political parties when deciding to use the ASE

5.1.2 Unless otherwise stipulated by the law, ensuring transparency of the work of election commissions using ASE

5.1.3 Timely informing citizens on progress of elections and voting results

5.1.4 Prohibiting unauthorized organizations, officials, and citizens from interfering into ASE information processes

5.1.5 Prohibiting the usage of other automated systems and technologies together with the ASE during elections

5.1.6 Ensuring security of information stored within the ASE

5.1.7 Clarity and easiness for voters when using ASE software and instructions on operating voting hardware; openness and accessibility of data provided by information fund according to the law

5.1.8 Security of hard- and software used in the ASE

5.1.9 Prohibiting connections to information systems and communication networks that are not used in ASE

5.1.10 Ensuring safety and reliability of ASE software and voting hardware

5.2 ASE program data shall be compiled in Mongolian

CHAPTER II DECIDING ON USING THE ASE POWERS OF THE STATE BODIES ON OPERATING THEREOF

Article 6. Powers of the State Great Khural on using and operating the ASE.

6.1. State Great Khural shall have the following powers in terms of using and operating the ASE:

6.1.1 Making decision on using the ASE for elections

6.2.1 Approving financial sources connected to using the ASE

Article 7. Powers of the Government in operating the ASE

7.1. The Government shall have the following powers in terms of operating the ASE:

7.1.1. Providing assistance and support needed for ensuring the work of the ASE

7.1.2 Resolving issues stated in par. 7.1.1 within its powers and powers assigned by the GEC; taking measures on exercising these powers

7.1.3. Attracting necessary media, human and other resources according to the law

7.1.4. Providing with necessary information, communication means, and reliable energy source.

Article 8. Responsibilities of the central state body, state bodies and local self-governance bodies, and governors of all levels related to operating the ASE

8.1. The central state body, respective state bodies, khurals of citizen representatives of aimak, capital, somon, rayon, and governors of all levels shall take part in election activities performed with usage of the ASE within their functions and powers stipulated by present law and legislation on elections. They shall be responsible for deciding on issues assigned to them by the election commission in a timely manner and for providing comprehensive assistance.

Article 9. Powers of the GEC of Mongolia in operating the ASE

9.1. The GEC shall perform duties of the customer of the ASE, define requirement to the ASE in accordance with the legislation on elections

9.2. The GEC shall arrange activities related to operating the ASE and exercise the following powers:

9.2.1 Approving resolutions, orders, and instructions related to using and operating of the ASE in accordance to the law on elections and ensuring compliance therewith

9.2.2 Establishing control of compliance with the legislation, resolutions, orders, and instructions related to operating of the ASE as well as establishing control of information activity related to using of this system

9.2.3 Establishing procedures for secure operation of the ASE

9.2.4 Approving general directions of the ASE improvement

9.2.5 Assuming measures in

9.2.6 Other powers foreseen by the law

9.3. Respective bodies, officials, and citizens shall observe general norms contained in the GEC decisions that are made by the latter within its powers according to the present law

Article 10. Powers of the district/territorial election commissions as well as of the ECs branch

10.1. DEC and TEC shall have the following powers in operating the ASE:

10.1.1 Arranging activities on using the ASE within its boundaries, taking measures on uniformed application of provisions, orders, and instructions of the GEC

10.1.2 Establishing control over the security of information

10.1.3 Ensuring safety and normal operation of hardware used in the ASE

10.1.4 Requesting respective bodies and officials to authorize compulsory extraction of necessary equipment and personnel for operating of the ASE and resolve other issues

10.1.5 Establishing control of lower-level commission in terms of ASE usage, tasking them within their powers

10.1.6. Extracting and transferring data immediately upon the request of the GEC

- 10.1.7. Examining and resolving violations arising from usage of the ASE within their powers
- 10.1.8. Performing other duties according to the legislation or the GEC decision
- 10.2. Within the powers assigned to it by the higher-level election commission, the EC branch shall arrange the work on using the ASE and assist [DECs and TECs] in exercising powers stipulated by the par. 10.1 of the present law.
- 10.3. The PEC shall perform the following duties in terms of using the ASE:
 - 10.3.1. Arranging information activities using automation media complexes
 - 10.3.2. Taking steps in ensuring security of data stored in automation media complexes
 - 10.3.3. Ensuring publicity on using the ASE within the law
 - 10.3.4. Informing voters and higher-level election bodies on progress of elections and results of voting conducted by means of ASE in a timely manner
 - 10.3.5. Examining and resolving violations and disputes arising during the use of the ASE
- 10.4. Chair people, secretaries, members and employees of DEC, TEC, and branches of the election committee, shall be prohibited from indirectly interfering with work of the specialists and system administrators facilitating the work of automation media complexes outside their competence.

CHAPTER III

STRUCTURE AND COMPONENTS OF THE ASE, IT MANAGEMENT

Article 11. ASE structure

- 11.1. Organizational structure of the ASE shall be based on the system of election commissions.
- 11.2. ASE shall include the following complexes of automation media:
 - 11.2.1. GEC complex of automation media comprising ASE complex at the GEC IT center.
 - 11.2.2. DEC/TEC complexes of automation media.
 - 11.2.3. PEC complex of automation media.
- 11.3. The GEC shall be entitled to decide on approving other complex of automation media to be used during elections.

Article 12. GEC IT center

- 12.1. In order to facilitate preparations and reliable operation of the ASE during elections as well as for providing technical service and performing general technological management, an IT center shall be established at the GEC
- 12.2. The GEC shall approve organizational structure, roster, and the budget of the Centre; it shall appoint the director of the Centre and sign a contract therewith
- 12.3. The IT center shall observe the rules established by the GEC and perform the following functions:
 - 12.3.1. Develop design and engineering solutions for the ASE for specific elections basing on the request from the GEC; provide unified technical, methodological, and technological management; be responsible for sustainable operation of the ASE

- 12.3.2 Perform organizational and methodological management of IT units and system administrators at DECs/TECs
- 12.3.3 Enable interactions of the ASE and other similar IT systems
- 12.3.4 Exercise the right of ownership and usage of technical media used in ASE and other property within its competence and the law
- 12.3.5 Ensure security of data in ASE
- 12.3.6 Sign contracts and agreements within its charter and legislation
- 12.3.7 Select and train a specialist, who will provide operation of the ASE; issue a certificate entitling to operate the ASE
- 12.3.8 Approve technical, methodological and organizational instructions within its competence
- 12.3.9 Performs other functions according to its charter and legislation

Article. 13. IT unit at DEC/TEC

13.1 Basing on the decision of the GEC IT Centre, the GEC shall approve DEC IT units with the staff of up to five people. The unit shall operate the ASE for the purpose of the DEC work.

Article 14. IT administrator

14.1 IT administrator in election commissions of respective levels shall be entitled to arrange information work facilitating operation of the automated election media and reliable operation of technical media.

14.2 IT administrator shall perform his/her duties under general supervision of the GEC IT Centre basing on the contract signed with the respective election commission for the duration of the election campaign

14.3. IT administrator shall be obliged to be trained at the GEC IT Centre and receive a certificate entitling him/her to operate complex of automation media

CHAPTER IV COMPLEX OF AUTOMATION MEDIA. INFORMATION FUND

Article 15. Legal status of property forming complex of automation media

15.1. Technical media, equipment, and software purchased using state funds to form complex of automation media, shall be the state property.

15.2. Basing on proposals of the GEC IT Centre, the GEC shall decide on renting private or other properties to be used in the complex of automation media

15.3. The GEC IT Centre shall transfer property forming the complex of automation media to respective election commissions upon the contract of pro bono ownership

15.4. The GEC IT center shall be responsible for updating, replacing components, replenishing and modifying technical media forming complex of automation media with the approval of the GEC

15.5. The GEC shall establish methods of accounting of property forming complex of automation media

15.6. Copyrights on ASE software shall be regulated by the Law on copyrights and other legal acts.

Article 16. Providing conditions for allocation of automation media complex

16.1. Governors of all levels shall allocate premises equipped with communication media and energy supply at the locations of election commissions in order to operate automation media complexes.

Article 17. ASE information fund

17.1. ASE information fund shall include the following data:

17.1.1. Personal data on citizens possessing suffrage rights, list of voters in electoral district and precinct, and the list of other corresponding data.

17.1.2. Data on candidates running in elections, and the list of other corresponding data and other corresponding data.

17.1.3. Data on composition of the election commission

17.1.4. Information on progress and results of voting

17.1.5. Information related to the work of election commissions

17.1.6. Other information stipulated by the law

17.2. The GEC shall approve the list of data to be stored in the information fund in line with the present law and the Law on elections

17.3. Data stored in the ASE information fund shall be the state property

17.4. Basing on the present law and other legislation, the GEC shall establish the order of forming information resources of the ASE as well as transmission, copy, duplication, and storage thereof and access thereto.

Article 18. Right of access to ASE information resources

18.1. The following subjects shall have the right of access to ASE information resources:

18.1.1. Chair people, secretaries, members, and employees of election commissions of all levels as well as employees facilitating ASE usage for performing their official duties and functions.

18.1.2. Citizens requesting their personal data as well as open data stipulated in the Art. 18.2 of the present law

18.1.3. Officials, who have the right of access to information according to the law

18.2. Basing on the law, the GEC shall establish the order of access to information resources to other users except for those indicated in the Art. 18.1 of the present law and the list of data open to the public.

18.3. Basing on the present law and the Law on elections, the GEC shall establish the order/issue regulation on security of data stored in ASE information resources, of other corresponding data, and the order of using thereof.

CHAPTER V

ENTRY INTO FORCE OF THE DOCUMENTS COMPILED BY MEANS OF THE ASE ENSURING RELIABILITY OF THE ASE

Article 19. Entry into force of the documents compiled by means of the ASE

19.1. Hard copy of the document compiled by means of the ASE shall enter into force once an authorized official signs and stamps it in line with the law.

19.2. Electronic document compiled by means of the ASE shall enter into force once an authorized official signs it with digital signatures in line with the law.

19.3. Aggregate table on voting results, other aggregate tables, and protocols prepared electronically shall be preliminary checked.

Article 20. Ensuring reliability of the documents prepared by means of the ASE

20.1. Data from paper-based and electronic documents shall be entered into information fund.

20.2. In case [the data from] a paper-based document has been entered into ASE information fund, this document shall be printed, signed by an authorized official, and stored. In case the document has been compiled electronically or in case [the data from] a digitally signed electronic document has been entered into information fund, this fact is recorded in a designated register.

20.3. Digital signatures in all documents relating to elections shall be checked before transmitting them to a higher-level election commission; a respective protocol shall be compiled.

20.4. The protocol referred to in Art. 20.3 of the present law shall be printed out and signed by the respective official of the lower-level election commission; it shall be recorded in a special register and stored.

20.5. Upon receipt of the electronic document, a higher-level election commission shall check the digital signature and compile a protocol. The protocol shall be printed out and signed by the official, who received the aforesaid document, it shall be recorded in a designated registered and stored.

20.6. The GEC shall approve the order of transmitting electronic documents between election commissions, the order of receiving, checking, and registering such documents as well as the order on using of a digital signature.

CHAPTER VI

ASE SECURITY, ESTABLISHING CONTROL OVER ASE OPERATION

Article 21. Ensuring ASE security

21.1. ASE security shall be ensured by means of security management measures and by establishing control over ASE operation.

21.2. ASE security shall be ensured by the following:

21.2.1. Certifying the ASE, hardware and software used therein

21.2.2. Applying special certified programs, technical media, channels, and communication media

21.2.3. Prohibiting unauthorized access to the ASE

21.2.4. Ensuring validity and integrity of the ASE data

21.2.5. Protecting information during its transmission

21.2.6. Special test of readiness of the ASE and [of] organization of elections

21.2.7. Following approved operation procedures

21.2.8. Taking steps in preserving and [ensuring] functioning of the automation media complex

21.2.9. Training personnel, who shall be entitled to operate the automation media complex

21.3. ASE security shall be ensured by the organization, which, according to a respective law, shall be responsible for providing services, works, automation, and communication [for the purpose of the ASE operation].

21.4. A working group comprising representatives from the IT center, state body responsible for communication, and a central intelligence agency shall test [ASE readiness] and guarantee operation of equipment and software to be used therein. This group shall issue the certificate stipulated in Art. 22.2.1 of the present law.

Article 22. Using IT and communication networks in ASE

22.1. Reserve channels of public, state and other communication networks shall be used for transmitting ASE data in line with law.

Article 23. Control over ASE use

23.1. In case election commissions at any level uses ASE, its complex part or its complex of automation media to organize elections in order to organize elections, it shall form a control group that will be responsible for supervising implementation of the law, orders, regulations, and instructions

23.2. The control group stipulated in Art. 23.1. of the present law shall include three members at the GEC level, five members at DEC and commission branch, three members at PEC. Control group members may include commission members, specialists and other representatives.

23.3. The GEC shall approve operational procedures and instruction on the work of control groups stipulated in the Art. 23.1 in line with the present law and Law on elections.

23.4. Control group stipulated in Art. 23.1 of the present law shall have the following rights:

23.4.1. Inspecting operational readiness of ASE hardware, technical media and automation media complex

23.4.2. Monitoring implementation of orders and instructions of the GEC and GEC IT center

23.4.3. Familiarizing with any information and documentation entered into/received from the ASE or transmitted to any election commission

23.4.4. Controlling correctness of entering data into ASE, i.e. figures on elections received from election commissions, as well as controlling correctness of added entries, corrections in entered data performed in line with the decision of the respective election commission

23.4.5. Cross-checking results of manual and automated data processing

23.4.6. Requiring clarifications from officials responsible for employees operating automation media complexes at the respective election commission

23.4.7. In case information activities are carried out by means of the ASE [the group shall have the right to] monitor observation of the law during documentation, registration, printing out, and applying digital signatures

23.4.8. Suggesting election commission to involve specialists and experts in controlling activities

23.4.9. Requiring official and employees to observe orders and instructions on using the ASE

23.5. In case the control group identifies that employee operating the automation media complex performed illegal action/inaction or other violations, it shall compile a grounded protocol, sign it and immediately inform a chairperson of the respective election commission. It shall also make suggestions on removing thereof at the session of the election commission.

23.6. Conclusions of the working group shall be registered in reports of the IT center.

Article 24. Responsibilities of other bodies in ensuring ASE security

24.1. Police, intelligence and other control bodies shall ensure ASE security together with the GEC within their functions and powers.

CHAPTER VII RESOLVING ISSUES ARISING DURING ASE OPERATION

Article 25. Contingency plan of uninterrupted information work

25.1. In case a technical failure has occurred during operation of the ASE automation media, and there is no possibility for a replacement/reparation with other technical media or equipment, the GEC shall approve a contingency plan in order to continue activities related to voting, vote counting, and data transmission and post [this decision] at the PEC not later than 15 days prior to voting.

Article 26. Fixing failures and deference in ASE

26.1. The chairperson of the respective election commission shall be immediately notified of any failure or deference in any technical media or hardware of automation media complex. The control group shall establish the reason of the failure and compile the protocol on fixing thereof and eliminating deference.

26.2. The protocol stipulated in Art. 26.1 shall be signed by the members of the control group and other employees; the protocol shall be stored together with other records.

26.3. Upon necessity, the control group shall be entitled to suggest election commission to resolve certain issues at its session.

26.4. The GEC shall be obliged to inspect and establish reasons of deference [or] inaccuracy in data in ASE. It shall take measures to ensure regular operation of the system, to eliminate failures, to mobilize human and technical resources, and to take immediate actions enabling system operation by arranging prompt supply of technical media and equipment and by submitting relevant issues for the consideration of the higher-level commissions.

Article 27. Transferring from automated ASE media to manual operation.

27.1. The GEC shall approve grounds and procedures of transferring to manual operation caused by a failure or deference occurred in ASE automation media complex.

Article 28. Selection of automation media complex

28.1. Technologies, technical media and equipment to be used in ASE shall be selected as follows:

28.1.1. The GEC shall approve the order indicating main requirements to the automation of a given election activities. This order shall form a basis for operation of the working group including state bodies responsible for state registration, main directorate of special security and other relevant bodies, economic units. The working group shall be responsible in examining technical and technological solution for the ASE and proposing technological solution, taking into account specifics of its country.

28.1.2. The GEC shall consider at its session solutions proposed by the working group as stipulated by Art. 28.1.1 and familiarize the State Great Khural with the technical and technological solution approved by the majority.

28.2. The automation media complex shall be purchased as follows:

28.2.1. A commission comprised of the GEC members and representatives from the state body responsible for finance and budget, state property committee shall arrange purchasing of the automation media complex by means of a contest between economic units that will be responsible for producing and supplying technical media and equipment. The commission shall make a respective suggestion to the GEC.

28.2.2. The GEC together with state body responsible for finance and budget and state property committee shall jointly approve the order of arranging the contest stipulated in Art. 28.2.1.

28.3. Purchasing of automated media complex, software and communication services shall not be regulated by the Law on state and local financing of goods, services and works.

Article 29. Pretesting automation media complex

29.1. It shall be forbidden to use software and automation media complex for the elections in case it has not been pretested

29.2. The GEC shall approve procedures of pretesting of the ASE and automation media complex.

29.3. The working group stipulated in Art. 21.4 of the present law shall issue a guarantee certificate proving that each technical item and media is ready for operation.

CHAPTER IX OTHER PROVISIONS

Article 30. Responsibilities for violating the present law

30.1. In case a certain action or inaction led to violation of the present law and it contains legal components of the crime, a guilty person shall be charged with a criminal offence.

30.2. In case it is possible to establish that a person, who violated the present law, has violated the law on elections by action/inaction, this person shall be prosecuted in line with the legislation on elections.

30.3. In case third parties violated the present law and caused property or other damage, those guilty shall be prosecuted according to the Civil law.

30.4. A judge shall decide on administrative sanctions towards those guilty as follows:

30.4.1. Organization, official or citizen violating Art. 5.1.4 of the present law shall be liable for a fine of 100,000-200,000 Tugriks; chairperson, secretary, member, employee of the election commission, who interfered with the work of the ASE by violating the Art. 10.4 of the present law.

30.4.2. Official violating the order, regulation or instruction approved by the GEC or other relevant authority, shall be liable for the fine of 100,000-200,000 Tugriks; a citizen shall be liable for a fine of 50,000-100,000 Tugriks.

CHAIRPERSON OF THE STATE GREAT KHURAL

D. DEMBEREL