

**LAW OF GEORGIA**  
**PRODUCT SAFETY AND FREE MOVEMENT CODE**

**Chapter I – General Provisions**

**Article 1 – Purpose of the Law**

The Objectives of this Code are:

- a) protection of human life, health, property, and the environment;
- b) placement of safe products in the market and their free movement;
- c) ensuring competition and facilitation in the process of product movement and its placement in the market;
- d) ensuring conformity of facilities with increased technical risk through state supervision and control;
- e) introduction of an inspection system based on the risk analysis and assessment;
- f) development of a technical inspection system for facilities with increased technical risk and creation of a legal basis for the activities of inspection bodies;
- g) separation of powers between the Legal Entity under Public Law (LEPL) – Technical and Construction Supervision Agency, and the inspection bodies in the area of operation and control of facilities with increased technical threat;
- h) ensuring implementation of construction activity under technical construction regulations and in full conformity with the requirements laid down by the legislation of Georgia;
- i) introduction of best practices in the areas of standardisation, metrology, accreditation and conformity assessment, as well as harmonisation with EU legislation.

**Article 2 – General principles of the Code**

1. This Code shall be based on the following principles:

- a) mandatory safety requirements established by the state apply only to a regulated field; in other fields, an entrepreneur may voluntarily choose which safety requirements to meet;
- b) safe product placement on the market with minimal regulation;
- c) a uniform and non-discriminatory approach to products with similar features in placing them on the market;
- d) a preference for international standards in the field of standardisation;
- e) the application of technical barriers to trade only to protect human health, safety and the environment in cases provided in this Code;
- f) procedures harmonised with the international conformity assessment system;
- g) advancement of quality infrastructure and market surveillance systems.

2. The regulation mechanisms of this Code shall be: provision of product safety, harmonisation of technical standards, and reduction of nontariff barriers to trade.

3. Products, manufactured in compliance with new and global approach directives adopted/approved by the European Commission, shall meet the basic safety requirements under this Code.

4. This Code shall not apply to products that are manufactured specifically for the police and/or military purposes.

**Article 3 - Unlimited access of the product to the market**

1. A product within a regulated area, which is manufactured in a country with appropriate product safety standards and advanced quality infrastructure in compliance with domestic legislation, shall be placed on the market without restriction. The list of the countries shall be defined by the Government of Georgia.

2. If specific safety requirements for any product to be placed on the market are not governed by the technical regulations, the requirements under Chapters II and III of this Code shall apply to that product.



3. If a product within a regulated area has safety features which are essentially changed, it shall be deemed to be a new product and it must comply with the requirements of the Technical Regulation under this Code when placing the product on the market and/or putting it into service, unless otherwise provided by the Technical Regulation.

#### **Article 4 – Definition of terms**

1. Product – all movable items and related services, even if this item is a component of another movable or immovable item. For the purposes of this Code, ‘an item’ does not include a primary food product or a product obtained as a result of hunting. ‘Product’ also includes goods placed on the market, regardless of whether they are intended directly for end consumers, delivered or otherwise made available for commercial or non-commercial purposes.

2. Safe product – a product which, when used as intended, reasonably and observing its shelf life, contains no risk, or contains only a minimal risk considered as acceptable taking into account the protection of human safety and health. The possibility of providing a higher level of safety or the availability of another product with a lesser degree of risk shall not constitute grounds for considering such product to be hazardous.

3. Unsafe product – any product that fails to comply with the definition of the 'Safe product' in the paragraph 2 of this article.

4. The manufacturer:

a) a manufacturer of a finished product, raw material or any component of a product, anyone who modifies the product, as well as any other person whose name, trade or other distinction mark is affixed to the product and who presents himself/herself as the manufacturer of the product;

b) a foreign manufacturer’s representative within the territory of Georgia, and/or a person engaged in placing products on the market, if a foreign manufacturer has no representative in Georgia;

c) a person who, within the scope of his/her activities, supplies the market with products, and whose activity can affect the safety features of products placed on the market.

5. Distributor – a person, who, within the scope of his/her activities, supplies the market with products and who cannot affect the safety features of products when proper conditions for the products are observed.

6. Designated representative – a person designated by the manufacturer, to whom an authorised person may apply instead of the manufacturer regarding the requirements of the technical regulations.

7. Importer/person responsible for placing the product on the market – a person who is responsible for placing on the market products manufactured in other countries.

8. Placement on the market – supply of products to the market on the territory of Georgia, except for free industrial zones, through manufacturing, import, renting, leasing or otherwise, for commercial or non-commercial purposes.

9. Commissioning – first use of the product in Georgia. If start-up of product commissioning is regulated by the legislation of Georgia, the commissioning may be subject to additional technical requirements.

10. The cases shall not be considered as market placement if:

a) the manufacturer has supplied the product to his/her representation;

b) the product is supplied for its further improvement (e.g., assembling, packaging, processing or labelling);

c) the product is not within the customs territory of Georgia;

d) the product has been produced in Georgia to export it to another country;

e) the product is intended for demonstration;

f) the product is placed within the customs territory of Georgia for warehousing and is not available to customers unless otherwise provided under the appropriate technical regulation for warehousing.

11. Technical documentation – necessary information under the technical regulation on the product and projects, production and operation processes.

12. Conformity Assessment (CA) – procedures that establish whether the requirements set for a facility of Conformity Assessment facility are met.

13. Facility of CA – any material, product, service, process, system, person against whom the conformity assessment is applied.

14. Conformity assessor – a person who carries out CA within his/her scope of professional activity. An accredited person



or another person directly designated by law shall carry out a conformity assessment within a regulated area.

15. Regulated area – an area defined by law, which directly establishes facilities for mandatory conformity assessment.

16. Product recall – an action directed towards returning unsafe products that have been already supplied by a manufacturer or a distributor or otherwise made available to customers.

17. Product removal – an action intended to terminate the distribution of unsafe products, their offer or supply to customers.

18. New approach technical regulation – a technical regulation adopted/approved by the European Commission on the basis of an appropriate new and global approach directive, which is published by the Legal Entity under Public Law (LEPL) – the National Agency for Standards and Metrology of Georgia.

19. International System of Units (SI) – the international system of units of measurement recommended and adopted by the General Conference on Weights and Measures under the Convention of the Metre.

20. Prepackaged products – packed products with indication of the amount on its packaging, which corresponds to a preselected nominal value to a certain precision and which may not be changed without opening the packaging or visibly damaging it.

21. Suspension of sale of products – temporary suspension of sale of products in order to correct detected non-compliances.

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*

*Law of Georgia No 3690 of 31 October 2018 – website, 7.11.2018*

## **Chapter II – Responsibility for Placing Defective Products on the Market**

### **Article 5 – Definition of terms**

For the purposes of this Chapter, the terms shall have the following meanings:

a) defective product – a product that does not meet the safety requirements expected by a person:

a.a) taking account of a general idea of the product;

a.b) under ordinary conditions of use;

a.c) taking account of the requirements applicable at the time of product placement on the market;

b) damage – a result of failure to comply with product safety requirements which cause:

b.a) damage to health of a natural person or his/her death;

b.b) damage or destruction of any part of property except for the defective product itself the cost of which is more than GEL 300.

### **Article 6 – Responsibility of manufacturers**

1. A manufacturer shall be liable for the damage caused by defective products placed on the market by it.

2. If a manufacturer cannot be identified, even if its name is indicated on the product, the person who actually placed the product on the market shall be considered to be its manufacturer, except when this person notifies, within a reasonable time, the victim of the location of the manufacturer or of a person who supplied him with the product.

3. The burden of proof for establishing damages shall rest with a victim. The victim shall also be obliged to prove a cause and effect relationship between the defective product and the inflicted damage.

4. If two or more persons are responsible for the same damage, they shall be liable jointly and severally, pro rata with their share of responsibility according to the legislation of Georgia.

5. A manufacturer shall be exempt from liability if it proves that it can meet the requirements of Article 8(2-3) of this Code.

6. Defective products may be placed on the market if the supplier clearly informs the customer that the products are defective.

7. A manufacturer shall also be held liable when the damage is caused concurrently by a defective product and an action of the third person.



8. A manufacturer's liability may be reduced or excluded if, under certain circumstances, the damage was caused by both a defective product and a victim's wrong action, or by a person for whom the victim is responsible.

### **Article 7 – Period of limitation for compensation of damages**

1. The time to make a claim for compensation for damages shall be three years. This term shall commence from the moment the victim learns or could have learned of the damage inflicted on him/her, and he/she could identify the damages, the defect, and the manufacturer of the product.

2. A victim has the right to claim compensation for damages within 10 years from the moment the damage-causing product was placed on any market, except where the victim has brought a lawsuit against the manufacturer during that period.

### **Article 8 – Exemption of manufacturers from liability manufacturer**

1. The liability of a manufacturer may not be restricted or excluded by other legislative acts.

2. A manufacturer shall not liable for inflicting damages if it can prove that:

a) it has not placed products on the market;

b) the defect that caused the damage did not exist at the time of product's placement on the market;

c) the product was not intended for placement on the market, or for distribution in any form, or the product has not been manufactured/distributed by it during its production activity;

d) the defect was caused by compliance with the requirements of the product technical regulation;

e) the scientific or technical expertise at the time of putting the product into circulation was not such as to allow the manufacturer to detect the defect;

f) as far as a product component manufacturer is concerned, the defect is caused by the product design into which that component is placed, or due to the instruction issued by the manufacturer that uses this component in its product.

3. A manufacturer shall not be held liable for placing a defective product on the market if that product has not caused any damage.

## **Chapter III – General Requirements for Product Safety**

### **Article 9 –Safety provision for products placed on the market**

1. A manufacturer shall be obliged to place only safe products on the market.

2. A manufacturer shall be obliged, within its scope of competence, to warn customers of any visible or invisible risks contained in the product when used as intended and within a predefined period of time. If a manufacturer is able to avoid a risk, it shall be obliged to take all measures to avoid the risk.

3. A manufacturer shall be obliged to act with due caution to ensure compliance of products with basic safety requirements.

4. A manufacturer must not distribute any product that, to the best of its knowledge and belief, fails to comply with the mandatory safety requirements.

5. A manufacturer must, within its scope of activity, contribute to ensuring safety of products placed on the market.

6. A manufacturer and a distributor shall be obliged, within their scope of competence, to cooperate with the authorised bodies with respect to the safety of products already placed or intended to be placed on the market.

7. For the purposes of this chapter, a 'Product' shall not be the product of secondary use that is supplied as an antique, or the product that has to be repaired or remade, if the supplier has clearly informed the customer.

### **Article 10 – Product safety assessment**

1. The following shall be taken into account when assessing the safety of a product:

a) product characteristics, particularly composition, packaging, assembly, and installation and repair instructions, as



appropriate;

- b) the impact on another product, when it is likely to be used together with this product to the extent of reasonable use;
  - c) product presentation, labelling, warnings, instructions for its use and disposal or any other information concerning the product;
  - d) age categories of customers for whom it might be harmful to use this product.
2. A safe product may not be regarded as an unsafe product because of a higher level of safety achieved in a respective field or due to the existence of a safer product.

#### **Article 11 – Placement of safe products on the market**

1. A manufacturer shall be obliged, within its scope of competence, to warn customers of any visible or invisible risks contained in a product when used as intended and within a predefined period of time, as well as of risks that may not be immediately apparent.
2. The warning shall not release a person from complying with the requirements determined by the legislation of Georgia.
3. A manufacturer must, within its scope of competence, provide for measures with respect to products that will enable it to:
  - a) analyse the risks that the product may cause;
  - b) take appropriate measures to prevent risks, including, to warn customers and recall products from customers and the market.
4. A manufacturer must provide a distributor with complete information about product-related risks to enable the distributor to communicate this information to a third party.
5. If a manufacturer and a distributor know or could have known, to the best of their information and professional knowledge, that products they have placed on the market contain risks that fail to comply with safety requirements under the legislation of Georgia, they must immediately notify an appropriate authorised body and provide the following information:
  - a) data to help accurately identify the product or its lot/group;
  - b) full information of the risks contained in the product;
  - c) full information that allows product tracking;
  - d) description of measures required for risk avoidance.
6. A manufacturer and a distributor shall be obliged, within their competence, to cooperate with an appropriate authorised body to implement measures to ensure that the risks caused by the products they have placed on the market are avoided.

#### **Article 12 – Product-related information**

1. A manufacturer/distributor shall be obliged to provide a customer with necessary, true and complete information about a product to allow him/her to make a correct choice.
2. The following product-related information must be provided to customers:
  - a) the name and type of products;
  - b) the brand name and address of a producer, the name of the country where the product was made;
  - c) as appropriate, the date of consumption of a product (the 'best before' date or manufacturing date and shelf life of the product) the consumer appeal of which tends to worsen over time;
  - d) as appropriate, weight and/or amount of a product;
  - e) as appropriate, the list of basic consumer appeals of a product;
  - f) as appropriate, terms and conditions for the effective and safe use of a product, as well as special storage conditions;
  - g) in cases of reservations made by a manufacturer/distributor – the warranty period and/or other liabilities;
  - h) measures to be implemented by a customer after expiry of the product's consumption date and the expected results of failure to implement the measures.



3. The information provided in paragraph 2(a-f) of this article must be in the Georgian language.
4. If additional or different requirements are established under the legislation of Georgia on communicating the information to customers, the requirements of an appropriate act shall apply.
5. A manufacturer/distributor shall have the right, for the sake of its business, to provide customers with more information than is required under this article.
6. If a manufacturer sells a product with a guarantee, it shall be obliged to observe the warranty terms, while a buyer is entitled to demand fulfilment of the warranty terms. A product guarantee shall not exempt a person from liability for inflicting damage as determined under this Code.
7. This Article shall also apply to the components of a product.

### **Article 13 – General requirements for employers, employees, and manufacturers**

1. Employers must take all necessary precautions to ensure that a product used in the workplace is safe.
2. Employees, based on appropriate guidelines and instructions issued by employers, must properly use the equipment, devices, other production facilities, and personal safety equipment.
3. In general, employees shall be responsible for ensuring protection of their own and other persons' health and safety during performance of work.
4. A manufacturer shall be responsible for the safety of the final product even if the product or its components are produced by other manufacturers.
5. A manufacturer shall be responsible for actions related to the placement of products on the market by its authorised representative.
6. On a customers' request, a seller shall be obliged to give them safety-related information of a product.
7. Customers shall be entitled to defend their rights in court or in an appropriate state body according to the legislation of Georgia.

## **Chapter IV – Technical Risk Management**

### **Article 14 – Scope of regulation**

1. This chapter shall regulate facilities that have an increased technical threat and the related processes. Production, construction, installation, storage, transportation, circulation, use, and destruction of the facilities contain the possibility of demolition, explosion, emission and intoxication, and represent an increased threat to human life, health, property and the environment.

1<sup>1</sup>. This chapter shall also regulate the issues of surveillance of the products placed on the Georgian market, to which the requirements established by appropriate technical regulations apply and for which the LEPL Technical and Construction Supervision Agency is determined as a market surveillance authority. This chapter shall not regulate the issues of surveillance of the products, to which the Law of Georgia on Food/Feed Safety, Veterinary and Plant Protection Code applies.

[ 1<sup>2</sup>. The terms used and the regulatory provisions provided for in this chapter shall apply to Grade V buildings or structures. *(Shall become effective from 3 June 2019)*]

2. With respect to supervision of construction activity, this chapter shall apply to:

- a) the activities of persons, as well as of partnerships, involving construction, installation, demolition of buildings or structures, their components, structural systems or nodes, and other construction-related activities;
- b) the project owners whose actions cause failures in construction activity;
- c) construction site owners or users, if the construction manager cannot be identified;
- d) structure owners or users, if the construction manager of a multi-apartment building cannot be identified;
- e) the owners of hazardous buildings or structures to be reconstructed or demolished, with an emergency level that directly endangers human life and/or health.

3. This chapter shall not apply to the following areas regulated by special legislations:



- a) areas defined under the Law of Georgia on Nuclear and Radiation Safety and the Law of Georgia on Radioactive Waste;
- b) the area of activities that falls within the competence of the Ministry of Internal Affairs of Georgia;
- b<sup>1</sup>) the area of activities of the Emergency Management Service, a special-purpose state institution directly subordinate to the Prime Minister of Georgia, such as: fire prevention and elimination of fire effects, as well as measures related to emergency management;
- c) areas of safe production, surveillance, and control of oil and gas operations defined under the Law of Georgia on Oil and Gas;
- d) areas that falls within the competence of the Ministry of Defence of Georgia.

4. This chapter shall not regulate:

- a) construction activities that require no construction permit;
- b) facilities and activities related to dangerous facilities control of which is not included in this chapter;

[ c) issues related to Grade I-IV buildings or structures determined by the Code of Georgia on Spatial Planning, and Architectural and Construction Activities. *(Shall become effective from 3 June 2019)*]

*Law of Georgia No 4492 of 11 November 2015 - website, 24.11.2015*

*Law of Georgia No 2632 of 27 June 2018 - website, 6.7.2018*

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*

*Law of Georgia No 3220 of 20 July 2018 – website, 13.8.2018*

*Law of Georgia No 3690 of 31 October 2018 – website, 7.11.2018*

## Article 15 – Definition of terms

For the purposes of this Chapter, the terms shall have the following meanings:

- a) facility with an increased technical threat (the facility) – a technical piece of work, equipment, device, their combination, or a structure, including a facility of particular significance, dangerous chemicals/compounds, hazardous waste, or an entity carrying out an activity and process that contains a potential technical threat and that can cause damage to human life, health, property and the environment in case of an accident or improper operation;
- b) increased technical threat – the danger contained in a facility in civil circulation, including the process of its creation and operation production, construction, installation, storage, transportation, circulation, use, and destruction of which contains a threat of demolition, explosion, emission and intoxication, and represents an increased risk to human life, health, property and the environment;
- c) breakdown – the destruction, demolition, explosion, or emission of a facility causing human intoxication or death, or harm to human health, the environment or material values;
- d) non-compliance – a failure of a facility, its defect, deviation from proper technological process that increases the threat, as well as a violation of safety rules that may be referred to as non-essential, essential or critical non-compliance:
  - d.a) non-essential non-compliance – a discrepancy that can be corrected without stopping normal activity which does not directly endanger human life, health, property or the environment and must be eliminated by the facility owner;
  - d.b) 1<sup>st</sup> degree essential non-compliance – a discrepancy correction of which is binding but impossible to do it immediately, and which cannot pose a life-threatening danger at the moment; however, in the future, failure to correct it can pose a substantial threat to the life, health or property of a person directly related to a non-complying facility or to the environment;
  - d.c) 2<sup>nd</sup> degree essential non-compliance – a discrepancy correction of which is binding but impossible to do it immediately, and which cannot pose a life-threatening danger at the moment; however, in the future, failure to correct it can pose a substantial threat to the life, health or property of a person directly related to a non-complying facility and a third person, or to the environment;
  - d.d) 1<sup>st</sup> degree critical non-compliance – a discrepancy that poses a substantial threat to the life, health or property of a person directly related to a non-complying facility, or to the environment, and which must be corrected immediately;
  - d.e) 2<sup>nd</sup> degree critical non-compliance – a discrepancy that poses a substantial threat to the life, health or property of a person directly related to a non-complying facility and a third person, or to the environment, and which must be corrected immediately;



e) inspection – in order to supervise the market, the process of assessing compliance of a facility with requirements established by the legislation of Georgia and the technical regulation, which is carried out in the forms of technical inspection, inspection of documents and state-technical supervision of construction on the basis of professional assessment. The inspection forms shall be:

e.a) technical inspection – on-site examination of a facility by an inspection body or any other authorised authority, which also includes the establishment of compliance of the facility with the technical documents;

e.a<sup>1</sup>) state-technical supervision of construction – at a project owner's request, verification of execution of construction performance documents in the course of construction for establishing compliance with the legislation of Georgia, in accordance with a decision on the given issue made by the state construction supervision body and as determined by the legislation of Georgia;

e.b) inspection of documents – analysis, assessment, and appropriate response by the Legal Entity under Public Law (LEPL) – Technical and Construction Supervision Agency to technical inspection materials developed by an inspection body;

[ e) inspection – the process of assessing compliance of a facility with the requirements established by the legislation of Georgia, including the technical regulations, for the purpose of market surveillance that is carried out in the forms of technical inspection and inspection of documents on the basis of professional assessment. The inspection forms shall be:

e.a) technical inspection – on-site examination of a facility by an inspection body or any other authorised authority, which also includes the establishment of compliance of the facility with the technical documents;

e.b) inspection of documents – analysis, assessment, and appropriate response by the LEPL Technical and Construction Supervision Agency to technical inspection materials developed by an inspection body; (*shall become effective from 3 June 2019*)]

f) inspection body – an independent person carrying out a conformity assessment of an object with the requirements established by the legislation of Georgia, which is registered in compliance with the Law of Georgia on Entrepreneurs and accredited by the Legal Entity under Public Law (LEPL) – the Unified National Body of Accreditation – Accreditation Centre in compliance with the legislation of Georgia, as well as other appropriate authorised bodies;

g) technical specification of a facility – technical specification of a facility includes:

g.a) identification data of the facility;

g.b) information on the facility owner;

g.c) information on the facility producer/builder, if any;

g.d) basic technical characteristics of the facility;

g.e) information on the facility location;

g.f) information on the performed technical inspection of the facility;

g.g) information about a breakdown of the facility;

g.h) other parameters established by the Government of Georgia, if any;

g.i) the permit number of a facility applying for permit or the number of an appropriate act, if any;

h) construction activities – construction, installation, reconstruction, and demolition process of a facility;

i) state construction supervision bodies – the Legal Entity under Public Law (LEPL) – Technical and Construction Supervision Agency, the state construction supervision bodies within the authorised agencies of the executive authority of the Autonomous Republics of Abkhazia and Adjara, and the state construction supervision bodies within local self-government bodies;

j) resistance – a feature of a building product and of a construction, their connection nodes, the foundation of a structure, and of the ground to sustain estimated load indicators without failing;

k) stability – ability of a structure to maintain a stable balance under estimated loads;

l) reliability – performance of functions in compliance with the standards for structures, their engineering systems and load-bearing construction during the entire period of operation;

m) project owner – a natural or legal person, as well as a person in another organisational form under the law, who orders work to be done by a construction organisation;

n) contractor – a legal or natural person, who performs design and survey work and/or construction and installation work based on the order;





- o) user – a natural or legal person (other than the natural or legal person whose right of temporary use of the thing has originated on a contractual basis) who has grounds to register the right to property according to the Law of Georgia on Public Registry but has not had this right registered by the time of committing a construction offence;
- p) construction permit – the right granted by an authorised body for a definite period under the procedures and in the manner defined by the legislation of Georgia, which represents a legal basis for implementation of construction;
- q) construction offence – violation of and/or failure to comply with the Georgian statutory requirements, for which liability is determined under this chapter;
- r) construction proceedings – proceedings conducted to correct a construction offence and/or for imposing liability under this chapter upon an offender;
- s) construction offence correction – provision of compliance of construction activities performed by an offender with the requirements of the construction documents and/or construction regulation based on an instruction and/or resolution by a state construction supervision body, which does not require a construction permit;
- t) area of special construction regime – territories determined by the legislation of Georgia, forest reserves and territories determined by the Law of Georgia on Water, as well as cultural heritage protected areas, resorts and recreation areas and other areas where additional special conditions are established for issuing construction permits;
- u) construction document – a document containing text and image information and representing the basis for issuing a construction permit and performing construction;
- v) specific construction regulation area – parts of territories within the administrative boundaries of the capital of Georgia, capitals of the Autonomous Republics of Abkhazia and Ajara, as well as resort and recreation areas that are determined under an ordinance of the Government of Georgia;
- w) instruction – a notice addressed to an offender by the LEPL Technical and Construction Supervision Agency with respect to non-compliance of construction activities, and a requirement setting a reasonable period during which the offender must follow the conditions of the instruction to correct a construction offence;
- x) inspection protocol – a document issued by the LEPL Technical and Construction Supervision Agency or other inspection body on the results of technical inspection, which contains the inspection results and conformity assessment data;
- y) technical certificate – a document issued by an inspection body that certifies compliance of a facility with established requirements;
- z) monitoring list – a list of facilities with critical non-compliance compiled by the LEPL Technical and Construction Supervision Agency, which conducts monitoring of the facilities on the list until the critical non-compliance is eliminated;
- z<sup>1)</sup> similar non-compliance – failures in the same type of electrical and mechanical machinery, mechanisms and devices on the facilities, as well as those related to the similar technological processes.
- z<sup>2)</sup> confirmed risk – the information obtained as a result of technical testing of a sample of a marketed product by an appropriate accredited laboratory or a laboratory approved under the legislation of Georgia or by the LEPL Technical and Construction Supervision Agency, and/or the information obtained from the customs authority/market surveillance authority of Georgia and/or other countries or through the international/regional system of exchange of information on the risks associated with the product that the use/operation of the product presents a risk to human life, health, property and/or the environment;
- z<sup>3)</sup> risk – taking into consideration the principles determined by Article 2 of this Code, all serious risks associated with a product or a facility that require urgent intervention by the state bodies;
- z<sup>4)</sup> economic operator – a manufacturer, a designated representative, an importer, a distributor and a person/persons supplying products directly to customers, who is/are responsible for the safety of the products, as provided for in Article 4 of this Code;
- z<sup>5)</sup> market surveillance – the activities carried out and measures taken by the market surveillance authority to ensure that products comply with the requirements set out in the legislation of Georgia and do not endanger human life, health, property and the environment;
- z<sup>6)</sup> documentary check – checking the compliance of the product-related documents with the legislation of Georgia by the LEPL Technical and Construction Supervision Agency within the framework of market surveillance;
- z<sup>7)</sup> technical testing – technical testing/examination of a product sample in order to determine its compliance with the legislation of Georgia;



z<sup>8</sup>) inspection report – a document containing the results of technical testing and/or documentary check carried out by the LEPL Technical and Construction Supervision Agency within the framework of market surveillance, which shall also include the results of checking the compliance with the resolutions determined by Article 19<sup>1</sup>(24) of this Code and with the timeframes determined for the correction of non-compliances, if any.

*Law of Georgia No 6541 of 22 June 2012 – website, 26.6.2012*

*Law of Georgia No 1041 of 6 September 2013 – website, 23.9.2013*

*Law of Georgia No 4962 of 13 April 2016 – website, 26.4.2016*

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*

*Law of Georgia No 3220 of 20 July 2018 – website, 13.8.2018*

*Law of Georgia No 3690 of 31 October 2018 – website, 7.11.2018*

## **Article 16 – Functions and powers of the Technical and Construction Supervision Agency**

1. The Technical and Construction Supervision Agency is a Legal Entity under Public Law (LEPL) within the Ministry of Economy and Sustainable Development of Georgia, which represents a state control body that exercises state supervision and control over facilities as determined by this Code, as well as carries out surveillance over the products placed on the Georgian market, to which the requirements established by appropriate technical regulations apply and for which the LEPL Technical and Construction Supervision Agency is determined as a market surveillance authority.

2. The Technical and Construction Supervision Agency shall:

- a) issue construction permits for construction of facilities of particular significance throughout Georgia (including radiation and nuclear facilities);
- b) issue permits for the use of industrial explosive materials;
- c) register facilities in a departmental facility registry;
- d) carry out inspection of a facility independently or through an accredited inspection body in the cases determined by Article 20(3) of this Code;
- e) impose administrative liability upon an offender except for the cases of commission of administrative offences provided for in Articles 42<sup>1</sup> - 42<sup>5</sup> of this Code;
- f) carry out inspection of documents of the conformity assessment of a facility with the technical regulation requirements through the analysis of technical inspection protocols and inspection body reports;
- g) issue instructions and/or set a reasonable period for correcting a non-compliance;
- h) contribute to the implementation of the national policy in the fields defined in this chapter;
- i) contribute to the development of documents for spatial and territorial planning of settlements and other territorial units, make arrangements for their consideration, as well as perform methodological management within the scope of its authority;
- j) put completely constructed facilities into operation;
- k) develop construction and design standards, rules, technical regulations and standards in the fields falling within the scope of its authority;
- l) implement personnel training and teaching and conduct trainings and courses for this purpose.

3. To obtain a permit for the use of industrial explosive materials, in addition to observing conditions provided in Article 25 of the Law of Georgia on Licenses and Permits, the permit applicant shall submit to the Technical and Construction Supervision Agency the following documents:

- a) a situational work plan, project or passport for the use of industrial explosive materials;
- b) an agreement between the parties on the use of industrial explosive materials.

4. Appropriate institutions of the Autonomous Republics of Abkhazia and Ajara shall be responsible for supervising facilities, except for facilities that require construction permits for facilities of particular significance.

5. In supervising construction of facilities of particular significance, the Technical and Construction Supervision Agency shall have the following functions:



- a) implementation of state supervision of facilities of particular significance throughout Georgia, as well as within the areas of special construction regulation in cases determined by an ordinance of the Government of Georgia;
- b) involvement of other administrative bodies into the process of issuing construction permits and putting completely constructed facilities into operation;
- c) performance of methodological management of authorised bodies;
- d) suspension of unauthorised construction or unauthorised demolition under way in violation of the legislation of Georgia, under procedures determined by Article 25 and Article 26 of this Code. The grounds for suspension of unauthorised construction or unauthorised demolition under way in violation of the legislation of Georgia may be the state supervision of construction activities, protection of construction safety and operational reliability of buildings or structures by the construction participants;
- e) control of observance of conformity requirements for buildings or structures being constructed by the construction participants with design and normative documentation.

6. While supervising construction of facilities of particular significance, the Technical and Construction Supervision Agency may:

- a) inspect construction facilities under its control;
- b) require that all participants of construction submit all necessary design, normative, and performance documents, as well as documents certifying compliance of construction material;
- c) if there is a violation in construction activity, issue a Directive with respect to all participants of construction to correct violations of requirements of construction design, construction norms and rules, and other normative documents. A Directive shall be issued even in cases when building materials, building products and construction that are available (brought in) at a construction facility fail to meet established requirements and their use must be banned. A Directive shall also be issued if the organisational rules established for construction activities are violated;
- d) suspend construction performed in violation of legislation of Georgia or unauthorised demolition in progress under the procedures determined by Articles 25 and 26 of this Code. The grounds for suspending construction performed in violation of legislation of Georgia or unauthorised demolition may be:
  - d.a) the performance of construction or demolition without appropriate permission;
  - d.b) the failure to observe requirements of construction design, construction norms and rules, and other normative acts that cannot be corrected without suspending construction;
  - d.c) the failure to follow the Directive of a state construction supervision body within a specified time;
- e) in case of a reasonable doubt, require that a project owner or construction organisation conduct additional laboratory tests and measurements. If a violation is confirmed, the offender shall pay the costs of laboratory investigations; otherwise, the costs shall be covered by the state construction supervision body;
- f) adopt a resolution on complete or partial demolition of structures that have been built, restored, reconstructed, and/or installed in violation of the legislation of Georgia. The basis for adoption of a resolution may be:
  - f.a) the failure to follow a directive by a state construction supervision body regarding an unauthorised construction;
  - f.b) the implementation of a construction project with significant violations, due to which the resistance, stability and reliability of structural elements are not ensured;
  - f.c) the condition of a structure if it fails to meet safe operation terms, to ensure resistance, stability, and reliability of structural elements, and when correction of these violations is technically impossible.

7. Under this article, the functions and powers provided in Articles 25, 25<sup>1</sup>, 26 and 43–54 of this Code in compliance with the Organic Law of Georgia on Local Self-government Codes, and by resolution of the Government of Georgia, the powers delegated by the Ministry of Economy and Sustainable Development of Georgia in the field of supervision of construction over other facilities shall be performed by the local self-governing authorised bodies.

**[ 7. (Deleted – 20.7.2018, No 3220). (Shall become effective from 3 June 2019)]**

8. Financial sources of Technical and Construction Supervision Agency shall be:

- a) special purpose funds allocated from the state budget of Georgia;
- b) special purpose grants;
- c) income received for work performed (to be performed) on a contractual basis;
- d) the Agency's service fees;



e) other incomes permitted by the legislation of Georgia.

9. Funds and incomes under paragraph 8 of this article shall be fully used for the implementation of goals and functions of the Technical and Construction Supervision Agency.

10. Types and prices of services provided in paragraph 8(d) of this article shall be determined by an Ordinance of the Government of Georgia.

*Law of Georgia No 6541 of 22 June 2012 - website, 26.6.2012*

*Law of Georgia No 1041 of 6 September 2013 - website, 23.9.2013*

*Law of Georgia No 1961 of 5 February 2014 - website, 19.2.2014*

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*

*Law of Georgia No 3220 of 20 July 2018 – website, 13.8.2018*

*Law of Georgia No 3690 of 31 October 2018 – website, 7.11.2018*

## **Article 17 – Departmental registry of facilities**

1. The Technical and Construction Supervision Agency shall maintain the departmental registry of facilities.

2. The Government of Georgia shall define the list of facilities to be included in the departmental register of facilities, and the rules for maintenance of registry.

3. Information shall be entered into the departmental registry of facilities according to the technical specifications.

4. Authorised executive bodies of the Autonomous Republics of Abkhazia and Ajara shall maintain departmental registries for facilities with an increased technical threat within the Autonomous Republics of Abkhazia and Ajara, except for facilities that require construction permits for facilities of particular significance.

## **Article 18 –Facilities and their supervision**

1. The rule for supervision of facilities under paragraphs 4 and 5 of this article and their features/parameters shall be determined by an ordinance of the Government of Georgia. These facilities shall be assigned to the category of facilities according to the above rules and features/parameters.

2. Facilities shall be subject to supervision.

3. Supervision of facilities shall be carried out in two ways:

a) by issuing permits and controlling compliance with permit conditions;

b) by periodic inspections.

4. Issuance of permits and control over compliance with permit conditions shall be performed at the following facilities:

a) where industrial explosive materials are used;

b) where facilities of particular significance (including radiation and nuclear facilities) are constructed.

5. The facilities shall be:

a) quarry– where minerals are extracted. A quarry is a trench or an open-pit made on the surface of the soil in order to extract minerals. Its surface is open throughout the operation of a quarry and it has terraced roads into it for movement of service vehicles;

b) mine – where minerals are extracted. A mine is a mining company where ore, mining and chemical raw material, and building materials are extracted by means of underground mining operations;

c) delft – where minerals are extracted. Adelft is a mining company, where layered minerals are extracted by means of underground mining operations;

d) natural cave and grotto where people go down in an organised way;

e) (deleted – 26.12.2014, No 3004)

f) (deleted – 26.12.2014, No 3004)

g) oxygen production and other related explosive processes;

h) liquid oxygen production;



- i) compression of oxygen in a tank/cylinder;
- j) ammonia-based refrigeration equipment used for business purposes;
- k) tank farm;
- l) oil-trunk pipeline;
- m) gas-main pipeline;
- n) crane equipment;
- o) elevator;
- p) escalator;
- q) a funicular;
- r) cable way;
- s) amusement park;
- t) boiler installation;
- u) pressure vessel;
- v) construction stability of hydro power facilities (artificial reservoirs, dams, regulatory structures, hydro-technical structures);
- w) (deleted – 29.6.2018, No 2757);
- x) refuelling stations and refuelling complexes (petrol station, gas station, and gas-filling station).

**Note :** Inspection of refuelling stations is permitted only with respect to observance of the requirements for video surveillance system installation and operation established under the technical regulations for refuelling stations and refuelling complexes as determined by Ordinance No 60 of 15 January 2014 of the Government of Georgia.

6. For purposes of this chapter, the facilities under paragraph 5 of this article, shall be within a regulated area and supervised by the Technical and Construction Supervision Agency, except when a technical regulation designates another body and/or person as a supervisor.

7. Threshold technical parameters, according to which facilities will be considered to contain an increased technical threat, shall be set under technical regulations.

8. The Technical and Construction Supervision Agency shall conduct periodic technical inspection of a facility in the area where there is no inspection body. The Technical and Construction Supervision Agency shall terminate periodic technical inspection of a facility within a respective field upon accreditation and operation of an inspection body as provided for by the legislation of Georgia. The issues related to technical inspection of construction activities shall be determined by an ordinance of the Government of Georgia.

*Law of Georgia No 6606 of 29 June 2012 - website, 10.7.2012*

*Law of Georgia No 3004 of 26 December 2014 - website, 12.1.2015*

*Law of Georgia No 3484 of 29 April 2015 - website, 14.5.2015*

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*

*Law of Georgia No 3690 of 31 October 2018 – website, 7.11.2018*

## **Article 19 – State control and supervision forms of facilities**

1. On-site control of a facility shall be exercised by inspection.

2. Documentary control shall be implemented by the Technical and Construction Supervision Agency based on the analysis and evaluation of the technical inspection documentary results performed by an inspection body.

3. The Technical and Construction Supervision Agency shall:

- a) take note of nonessential non-compliances and make a corresponding entry in the departmental registry of facilities;
- b) in the case of essential non-compliance, fine the facility owner, make a corresponding entry in the departmental registry of facilities, set a reasonable period for correcting violations, and keep control of maintaining the term for correcting the non-compliance. In the case of failure to correct an essential non-compliance within the set period, the non-compliance shall be assigned the status of a critical non-compliance;



c) in the case of a critical non-compliance, issue an act on full or partial suspension of the facility's operation (including suspension of technological process, use of a technical product, mechanism, tool, equipment, device and any combination of them at the facility), fine the facility owner and set a reasonable period for correcting violations, make corresponding entry in the departmental registry of facilities, register the facility in the monitoring list, control compliance with the time frame for correcting the non-compliance and that the suspended facility is not operated, and if the facility is secretly operated, fine the owner and suspend operation of the facility (including the technological process, and use of any technical product, mechanism, tool, equipment, device and any combination of them);

d) in the case of an essential or critical non-compliance at a facility, fine the facility owner in the full penalty amount determined under the respective article of this Code; in all other instances of similar critical or essential non-compliance, the amount of fine for each non-compliance shall be half the full penalty amount determined under the respective article of the same Code.

4. If non-compliance is detected, the Technical and Construction Supervision Agency shall issue an appropriate administrative-legal act.

5. The Technical and Construction Supervision Agency shall not be responsible for violations and/or accidents at the facility, unless the violation and/or the accident are directly caused by an action of the Technical and Construction Supervision Agency.

6. Inspection of a facility shall be deemed completed after the Head of the Technical and Construction Supervision Agency issues an appropriate administrative-legal act.

7. Based on confirmation by an inspection body that a critical non-compliance is eliminated at a facility, the Technical and Construction Supervision Agency shall make a decision on resumption of the facility operation and remove it from the monitoring list.

8. In a case of critical non-compliance, a decision on suspension of the facility's operation shall not be made if the suspension may increase the threat, or is impossible because of the nature of the technological process.

9. In a case of non-compliance, if suspension of a facility's operation ensures elimination of the threat, the facility owner has the right to suspend its operation for an indefinite period without correcting the non-compliance and shall so notify the Technical and Construction Supervision Agency. In this situation, the obligation to correct non-compliance shall be cancelled and the Technical and Construction Supervision Agency shall enter the facility in the monitoring list and control that the suspended facility is not operated, and if the facility is secretly operated the Agency shall fine the facility owner and suspend its operation.

10. Non-payment of the fine amount within the set period shall triple the fine.

11. In case of failure to correct non-compliance within the set time, an additional reasonable period for correcting it shall be granted to the facility owner.

12. If the non-compliance is not corrected after the period from imposing triple fine expires, the imposed fine shall be tripled.

13. The directive shall have a form of an act, one copy of which is handed to the facility owner and the other one is deposited with the inspection body.

14. Letting the facility's responsible safety person review contents of the directive and its transfer to him/her by an inspection person shall be considered that he/she has read the directive. The receipt of the directive shall be confirmed by the signature of the responsible person, and if it is impossible to do, the directive shall be placed in a prominent location at the facility.

15. The directive shall be the basis for initiating construction proceedings and can be appealed along with the resolution.

16. The original and one copy of the directive shall be handed to the facility owner (or his/her representative) within one day after the inspection. One copy of the inspection protocol shall remain with the inspection body, and if an accredited inspection body carries out the technical inspection, one copy shall be submitted to the Technical and Construction Supervision Agency.

17. The non-compliance at the facility may be a nonessential, essential or critical non-compliance, which is indicated in the inspection protocol.

18. Inspection bodies of the Organisation for Economic Cooperation and Development (OECD), and inspection bodies accredited to the European Union member states, which get registered with the Unified National Body of Accreditation – the Accreditation Centre, shall also have the right to conduct on-site inspections.

19. If the facility fails to conduct an inspection (other than by reason of the inspection body), the Technical and Construction Supervision Agency shall fine the facility owner and set a reasonable period for it to conduct an inspection.



20. In case of a repeated failure to conduct an inspection within the reasonable period, the fine shall be doubled.
21. The original and one copy of the inspection protocol shall be handed to the facility owner (or his/her representative) within one day after the inspection. One copy of the inspection protocol shall remain with the inspection body, and if an accredited inspection body carries out a technical inspection, one copy shall be submitted to the Technical and Construction Supervision Agency.
22. The facility owner shall submit to the Technical and Construction Supervision Agency the information regarding the facility inspection and its results within five working days after the inspection.
23. The degree of non-compliance for certain facilities shall be determined by appropriate normative acts.

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*

*Law of Georgia No 3690 of 31 October 2018 – website, 7.11.2018*

## **Article 19<sup>1</sup> – Surveillance of a product on the Georgian market and obligations of an economic operator**

1. Surveillance of a product on the Georgian market shall be carried out:
  - a) on the basis of risk analysis, according to the plan drawn up by the Technical and Construction Supervision Agency;
  - b) if the Technical and Construction Supervision Agency has a reasonable doubt or information on the risks associated with a product, namely that the use of the product may present a risk to human life, health, property and/or the environment;
  - c) if the Technical and Construction Supervision Agency is informed that the marketed product does not comply with the requirements established by this Code and appropriate technical regulations.
2. Surveillance of products on the Georgian market is carried out through documentary check and/or technical testing.
3. An economic operator shall comply with the requirements established by the legislation of Georgia for product safety and for placement of products on the market.
4. In the process of market surveillance an economic operator shall cooperate with the Technical and Construction Supervision Agency and, in the cases determined by the legislation of Georgia, allow the representative of the Technical and Construction Supervision Agency access to the product manufacture, warehousing, storage and sale sites.
5. Documentary check of a product shall be carried out through the submission of the product-related documents, determined by the legislation of Georgia, to the Technical and Construction Supervision Agency upon its request, and the results of the inspection shall be recorded in an inspection report.
6. Technical testing of the marketed products shall be carried out through technical testing of the product samples within the customs control areas of Georgia and at the places of sale of products, and/or through testing/examination of the product samples taken at the places of sale of products, and the results shall be recorded in an inspection report.
7. In the process of surveillance of products on the Georgian market, the Technical and Construction Supervision Agency shall be authorised to check all the characteristics of the product, as well as its specific components, or the characteristics, on the risks associated with which it has information and/or a reasonable doubt.
8. The market surveillance procedures determined by the legislation of Georgia shall be carried out at the product manufacture, warehousing, storage and sale sites only if the product presents a confirmed risk.
9. The Technical and Construction Supervision Agency shall be authorised to require provision to it of the product sample/samples, on which it has information and/or a reasonable doubt that the product may present a risk to human life, health, property and/or the environment to the extent that requires carrying out of the surveillance under paragraph 1 of this article.
10. Paragraph 9 of this article shall not apply to the products that cannot be sampled due to their physical and/or other qualitative properties. Such products may be checked on site upon the decision of the Technical and Construction Supervision Agency.
11. Upon the request of the Technical and Construction Supervision Agency, an economic operator shall provide it with the product sample/samples determined by paragraph 9 of this article as well as the product-related documents determined by paragraph 5 of this article. The expenses of purchasing the product sample/samples shall be reimbursed by the Technical and Construction Supervision Agency.
12. The Technical and Construction Supervision Agency shall be authorised, upon its discretion, to secretly purchase the products subject to surveillance if it facilitates the efficient identification and detection of risks.



13. If, as a result of testing and laboratory analysis of a product sample, it has been established that the product presents a confirmed risk, an economic operator shall fully reimburse the cost of the product sample as well as the expenses incurred for the testing and laboratory analysis of the product sample.
14. If the Technical and Construction Supervision Agency is informed that a specific product and/or series of products produced by a specific manufacturer does not comply with the requirements established for that product by the legislation of Georgia and/or presents/present a confirmed risk, it shall be authorised to require from the economic operator immediate suspension of the sale of, removal, recall and/or destruction of the product/products at the expenses of the economic operator, according to the non-compliance with the requirements established by the legislation of Georgia/the confirmed risk.
15. If, as a result of an inspection, a documentary non-compliance and/or technical non-compliance has been detected that presents a risk to human life, health, property and/or the environment, the Technical and Construction Supervision Agency shall be authorised to determine a reasonable timeframe of not more than 30 days for the economic operator to correct the non-compliance. If the economic operator fails to correct the non-compliance within the established timeframe, the Technical and Construction Supervision Agency shall be authorised to require the economic operator to suspend the sale of the product until the non-compliance is corrected. If the economic operator corrects the non-compliance, it shall notify the Technical and Construction Supervision Agency in this regard. The Technical and Construction Supervision Agency shall verify the fact of correction of the non-compliance.
16. If an economic operator fails to comply with a resolution on suspension of sale of a product, the Technical and Construction Supervision Agency shall recheck the fact of compliance with the resolution by the economic operator within the reasonable period of time. If, as a result of a repeated check of compliance with the resolution, it has been established that the economic operator has not suspended sale of the product, the liability shall be imposed on the economic operator in accordance with this Code.
17. If a product fails to meet the safety requirements established by appropriate technical regulations and if it presents a risk to human life, health, property and/or the environment, the Technical and Construction Supervision Agency shall make a decision on removing the product from the market.
18. If a product fails to meet the safety requirements established by appropriate technical regulations and, at the same time, presents and maintains a serious risk to human life, health, property and/or the environment after it is sold, at the stage of its use, the Technical and Construction Supervision Agency shall make a decision on recalling the product.
19. If a product presents a confirmed risk, namely, if a product contains hazardous chemical substances determined by the legislation of Georgia, including nuclear compounds, or if a product presents other risks, namely if, after the processing of the product, it may maintain risk to human life, health and the environment, the Technical and Construction Supervision Agency shall make a decision on destroying the product.
20. A resolution on the removal, recall or destruction of a product shall specify a reasonable period of time for an economic operator, based on the complexity and complicity of the process. An economic operator shall notify the Technical and Construction Supervision Agency in writing on the completion of the process of removal, recall or destruction of a product. Before the expiry of the timeframe determined for the removal, recall or destruction of a product, an economic operator may not sell the product.
21. If a Legal Entity under Public Law the Revenue Service has information that a specific product presenting a confirmed risk has been imported into the territory of Georgia, it shall take all possible measures to ensure inadmissibility of importing such product into the territory of Georgia and shall immediately notify the Technical and Construction Supervision Agency in this regard.
22. The decisions determined by paragraphs 14, 15, 17-20 and 27 of this article shall be made in a form of a resolution and shall be binding. Appealing of the resolutions determined by this paragraph shall not suspend their enforcement.
23. In the case of failure to comply with a resolution of the Technical and Construction Supervision Agency on the removal of a product from the market, the resolution shall be immediately enforced after the expiry of the timeframe determined by paragraph 20 of this article in accordance with the Law of Georgia on Enforcement Proceedings, on which an appropriate writ of execution shall be issued.
24. Control over the compliance with the resolutions determined by paragraph 22 of this article shall be carried out by the Technical and Construction Supervision Agency.
25. The Technical and Construction Supervision Agency shall inform the public on the confirmed risk associated with a product by publishing such information on the website of the Technical and Construction Supervision Agency or by other means of dissemination of information.
26. The Technical and Construction Supervision Agency shall be authorised to require an economic operator to inform the public on the risks associated with a product. The sources of provision of information to the public on the confirmed





risks associated with a product, as well as the means and timeframes for acknowledging the provision of such information shall be determined for an economic operator by a resolution of the Technical and Construction Supervision Agency, based on the analysis of the potential threat and the risk of spread of such threat.

27. The Technical and Construction Supervision Agency shall inform an economic operator, as well as a customs authority, if necessary, on the confirmed risks associated with a marketed product and the measures to be taken for the prevention of such risks.

28. The procedure for carrying out market surveillance by the LEPL Technical and Construction Supervision Agency, the procedure for determining the categories of risks associated with a product, and the procedures for removing, recalling, suspending the sale of and destroying the products shall be approved by the normative acts of the Government of Georgia.

29. The definitions of terms used in this Code shall apply to the terms used in this article that are not defined in Article 15 of this Code.

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*

*Law of Georgia No 3690 of 31 October 2018 – website, 7.11.2018*

## **Article 19<sup>2</sup> – Procedure of payment of fines imposed by the Technical and Construction Supervision Agency for the commission of offences identified in the process of market surveillance**

A fine imposed under Articles 42<sup>1</sup>– 42<sup>5</sup> of this Code shall be paid by an offender within 30 days after the decision on imposition of the fine is served on the offender. An offender shall submit to the Technical and Construction Supervision Agency a receipt of payment of a fine within five days after the payment. A receipt of payment of a fine may be also submitted in an electronic form.

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*

*Law of Georgia No 3690 of 31 October 2018 – website, 7.11.2018*

## **Article 20 – Basis for implementation of technical inspection**

1. Technical inspection shall be based on a risk analysis and assessment system.

2. Inspection Technical Regulations shall determine risk categories and establish periodicity of routine technical inspections.

3. In addition to the established periodicity, technical inspections shall be carried out in case of:

- a) a reasonable doubt, on the basis of notification of a possible threat, on the basis of organoleptic sensations;
- b) a force majeure situation;
- c) a breakdown;
- d) an accident that caused significant damage to human health or death;
- e) checking the observance of construction permit conditions.

## **Article 21 – Inspection body and its rights and obligations**

1. An inspection body shall carry out a technical inspection in the form of on-site inspection of a facility.

2. In the case of a technical inspection, carried out under Article 20(3) of this Code by an inspection body accredited by the Technical and Construction Supervision Agency, an inspection body shall immediately notify the Technical and Construction Supervision Agency of the presence of an essential or critical non-compliance identified at the facility. The non-compliance shall be indicated in a technical inspection protocol. A copy of the protocol with special notes/instructions (if any) shall be sent to the Technical and Construction Supervision Agency within 24 hours.

3. An inspection body shall provide the Technical and Construction Supervision Agency with a notice of starting an inspection along with a copy of the document certifying accreditation.

4. In the case of a technical inspection, carried out under Article 20(3) of this Code by an inspection body accredited by the Technical and Construction Supervision Agency, an inspection body shall submit to an appropriate body responsible for supervision of technical and construction activities the documents about the inspections conducted and their results within five working days after the inspection, except as provided in paragraph 2 of this article.

5. An accredited inspection body carrying out periodic safety inspections of a facility must have adequate liability



insurance, except for the inspection bodies of the OECD member countries liability insurance of which covers the territory of Georgia.

6. If, as a result of a technical inspection, it has been established that a facility fully complies with the established requirements, an inspection body shall issue a certificate of inspection.

7. If a facility complies with the technical requirements, an inspection body shall submit a copy of the certificate of inspection within five days after its issuance to the Technical and Construction Inspection Agency which will enter the information in the certificate in the departmental register of facilities.

8. (Deleted – 29.6.2018, No 2757);

9. (Deleted – 29.6.2018, No 2757);

10. (Deleted – 29.6.2018, No 2757);

11. (Deleted – 29.6.2018, No 2757);

12. (Deleted – 29.6.2018, No 2757);

13. Information/documents under this article may also be sent in electronic form.

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*

*Law of Georgia No 3690 of 31 October 2018 – website, 7.11.2018*

## **Article 22 – Ruling out of conflicts of interest**

1. An inspection body shall, in its professional activities, evaluation and decision-making, be independent of the interested parties.

2. An inspection body and its staff, who are responsible for carrying out inspections, must not be directly involved in the design, production, operation, supply, installation and repair of a facility, and must not be the authorised representatives of persons performing the above functions.

3. An inspection body and its staff must not be directly involved in the design, production, installation, and service of interchangeable facilities. An inspection body and its staff must not be the authorised representatives of persons performing the above functions.

4. An inspection body must not carry out any other activities that may affect its independence of decision-making and its impartiality.

5. An inspection body and the facility owner may not have a common economic interest.

## **Article 23 – Duties of facility owners**

1. A facility owner shall be obliged to:

a) submit the appropriate registration information to the departmental registry of facilities;

b) ensure compliance of the facility with safety requirements;

c) ensure safe working conditions;

d) ensure that facilities undergo periodic technical inspections as determined by the legislation of Georgia;

e) refrain from operating a facility without a compliance certificate;

f) retain inspection documents for six years, unless another time limit is set by the technical regulations;

g) comply with instructions of the Technical and Construction Supervision Agency;

h) identify the person/body responsible for safety of the facility;

i) carry out breakdown/accident prevention activities;

j) immediately notify the Technical and Construction Supervision Agency of a breakdown and take all necessary measures to eliminate consequences of the breakdown.

2. The facility's owner shall be obliged to immediately notify the Technical and Construction Supervision Agency of a breakdown/accident.

Notification may be made via any means of communication.



## **Article 24 – Ensuring labour safety at the facility**

1. Labour safety rules and procedures at the facility, as well as duties of the persons responsible for their observance shall be established by the appropriate technical regulations based on the following principles:

- a) provision of workplace safety by an employer;
- b) designation of a person/body responsible for observance of the labour safety rules;
- c) provision of primary health care to prevent an employee's death, health injury or illness;
- d) keeping employees informed through posting instructions, marking facilities, training of employees, and through risk assessment and management.

1<sup>1</sup>. If the facility at the same time falls within the scope of the Law of Georgia on Labour Safety, the norms related to labour safety at facilities shall also be defined by the Law of Georgia on Labour Safety .

2. Labour safety conditions during construction shall be established under the legislation of Georgia.

3. An employer shall be obliged to provide employees with information related to increased technical threats.

4. An employee at the workplace has the right to know:

- a) what type of work with what increased technical threat he/she performs;
- b) what are the consequences of non-observance of labour safety rules both for him/her and the people around him/her;
- c) what are the measures to be implemented to ensure safe working conditions.

*Law of Georgia No 2051 of 7 March 2018 - website, 21.3.2018*

## **Article 25 – Construction proceedings**

1. During construction proceedings the Technical and Construction Supervision Agency shall be guided by this Law and other legislative acts of Georgia.

2. A state construction supervision body shall initiate construction proceedings by issuing a directive to the offender, except as provided in paragraph 23 of this Article.

3. If a person implementing an unauthorised construction cannot be identified and the land is the property of the state and/or a self-governing unit, an authorised body shall, without issuing a directive, adopt a resolution to demolish the unauthorised construction. Appealing the resolution shall not suspend its effectiveness.

4. If a person conducting unauthorised construction is identified and the land is the property of the state and/or a local self-governing unit, an authorised body shall, based on a directive issued and the inspection report drawn up, adopt a resolution to demolish the unauthorised construction and to impose liability under the legislation of Georgia upon the offender. Appealing the resolution shall not suspend its effectiveness with regard to the demolition.

5. After expiration of the time limit set by the directive, a state construction supervision body shall check the offender and draw up a respective inspection report. The inspection report shall describe the actual situation of the facility under construction against conditions of the directive, and namely:

- a) the directive has been carried out;
- b) the directive has not been carried out;
- c) the directive has been carried out untimely.

6. When a construction offence occurs, an inspection report may be drawn up before expiration of the time limit set by the directive, based on an offender's substantiated request. This should be noted in the inspection report.

7. If the directive was not carried out timely, but the offence was corrected before adoption of the resolution, the offender shall be released from liability and the proceedings shall be terminated, except in the case of an offence provided for by Article 49(a) of this Code. 8. Calculation of the time limit set under the directive shall be suspended from initiation of proceedings for legalisation of the facilities or their parts constructed without authorisation and/or in breach of the project until an appropriate decision.

9. If a violation is recorded in the inspection report, based on it, the Technical and Construction Supervision Agency shall adopt a resolution to:

- a) fine the offender;



b) fine the offender and suspend an unauthorised construction ongoing in breach of the legislation of Georgia and an unauthorised demolition;

c) fine the offender and fully or partially demolish buildings and structures constructed in breach of the legislation of Georgia, fully or partially suspend construction of buildings and structures and demolish them.

10. If the offender fails to pay the fine imposed, a state construction supervision body shall make a resolution on imposing a penalty.

11. A state construction supervision body shall make a resolution to terminate construction proceedings if:

a) violations are corrected and the directive is fulfilled;

b) during the proceeding, circumstances ruling out the construction offence have been revealed;

c) a project coordinator and a construction permit issuing body has made a decision to legalise the facility;

d) there is no basis for making a resolution under paragraph 9 of this article.

12. If correction of violations at a facility under construction is impossible without suspending the construction, a state construction supervision body shall make a resolution to suspend the construction. After adoption of the resolution, this Body shall be authorised to issue a directive to correct violations.

13. Within two months after drawing up an inspection report, a state construction supervision body shall be obliged to make a resolution regarding construction proceedings. A hearing official shall be entitled on reasonable grounds to extend the time limit for consideration of the proceeding. The time limit for consideration may be extended by no more than two months. An offender must be notified of the hearing venue, date, time, and identity of the official considering the case, except in the case of an offence provided for by Article 49(a) of this Code. In the case of an offence provided for by Article 49(a) of this Code, the construction supervision body shall be obliged to make a resolution on imposing a fine immediately after an inspection report has been drawn up.

14. In case of failure to adopt a resolution within the time specified in this chapter, an offender shall be exempt from the obligation to pay the fine under this Code. In this case, a state construction supervision body shall have the right to adopt a resolution only to fully or partially demolish buildings and structures constructed in breach of the legislation of Georgia, fully or partially suspend construction of buildings and structures and demolish them.

15. The resolution under paragraph 9 of this article shall be an administrative-legal act to be enforced as determined under this Code and the Law of Georgia on Enforcement. The resolution by the state construction supervision body must be substantiated and, along with the details established for administrative-legal acts, must contain the name and address of the body where the administrative-legal act may be appealed, and the period for appeal.

16. The resolution under paragraph 9 of this article shall be submitted for enforcement within at least six months after the date of its entry into force.

17. The party specified in the resolution must familiarise itself with the resolution adopted by the state construction supervision body within 24 hours after its adoption.

18. A fine imposed for a construction offence shall be transferred to the budget as determined under the Budget Code of Georgia.

19. If it is not possible to let the party specified in the resolution familiarise itself with the directive, inspection report, notice, or resolution (by handing them over in person), is not possible, their placement in a prominent place at the facility referred to in the directive, inspection report, notice, or resolution shall be deemed to be the familiarisation. A prominent place shall be:

a) a notice board;

b) a temporary building on the construction site for the construction manager;

c) the security fencing around the construction site.

20. If there are no such prominent places referred to in paragraph 19 of this article, a façade of the facility under construction shall be deemed to be a prominent place and if the facility under construction is a multi-apartment house – the main entrance to the house.

21. The period for appealing a resolution adopted by the state construction supervision body during the construction proceeding shall be determined by this Code.

22. A resolution (an administrative-legal act) adopted by the state construction supervision body may be appealed in the manner determined under the legislation of Georgia within 15 days after its review. However, the appeal shall not suspend enforcement of the resolution by the state construction supervision body in relation to suspending the construction or demolition.



23. A construction proceeding shall be initiated by drawing up an inspection report if:

- a) a resolution to immediately suspend demolition of the construction is adopted;
- b) there is a violation provided in Article 51 of this Code;
- c) a resolution to impose a penalty for violations is adopted;
- d) an offender is fined with triple the amount of a fine;
- e) a milestone report is not duly submitted;
- f) an application for commissioning of a fully constructed facility is not submitted to an appropriate body within the statutory period;
- g) an offender, based on his/her statement, acknowledges the violations at the construction facility, and asks for taking statutory measures;
- h) so provided for in Article 25<sup>1</sup>(6) of this Code;

[ h) (deleted – 20.7.2018, No 3220); (shall become effective from 3 June 2019)]

- i) there is an offence provided for by Article 49(a) of this Code

*Law of Georgia No 6541 of 22 June 2012 - website, 26.6.2012*

*Law of Georgia No 2051 of 7 March 2018 - website, 21.3.2018*

*Law of Georgia No 3220 of 20 July 2018 – website, 13.8.2018*

## **Article 25<sup>1</sup> Construction proceedings during implementation of the state and technical supervision over the construction**

1. Implementation of the state and technical supervision over the construction shall include, in relation to an offence under Article 45 of this Code, and for its prevention, control of the construction activities at the request of the project owner in accordance with a decision by the state construction supervision body and as determined under this Code.

2. The state and technical supervision can be implemented if the project owner's request to do so is satisfied under a decision by the state construction supervision body after presenting the receipt to prove payment of the respective fee. The state construction supervision body shall make a decision to implement state and technical supervision within five working days after submitting the application. The state construction supervision body shall make a negative decision to implement state and technical supervision if an applicant's request contradicts the requirements of this Code and other legislative acts of Georgia. During implementation of the state and technical supervision process, liability shall not be imposed on a project owner under Article 45 of this Code, except as provided in paragraph 6 of this article.

3. During implementation of the state and technical supervision process, a project owner shall be entitled to require that one or several inspections of its ongoing construction be conducted within the construction permit period.

4. A project owner shall be obliged to apply to the state construction supervision body with a request to inspect the construction not later than six months after the Body makes a positive decision to implement state and technical supervision. In addition, the interval between each subsequent request and previous request to inspect the construction must not exceed six months.

5. During implementation of the state and technical supervision process, the state construction supervision body shall make a recommendation to correct violations at the construction facility, and shall set a time limit of not less than 30 calendar days for a project owner to fulfil the recommendation. If the project owner can submit a substantiated application before expiry of the recommendation compliance period, it may be extended up to maximum 120 calendar days. The project owner shall have the right to include violations at the construction facility in a construction document within this period according to the legislation of Georgia and/or to ensure compliance of the project with the agreed construction project. A construction proceeding against the project owner shall not be initiated during the recommendation compliance period. A decision to extend the recommendation compliance period up to 120 calendar days shall be made within 15 days after submitting the application.

6. In case of failure to comply with the recommendation of this article, the state construction supervision body shall initiate a construction proceeding in the manner determined in Article 25(23) of this Code. In this situation, implementation of the state and technical supervision process shall not be prematurely terminated and the project owner shall be entitled to exercise the right to request inspection of the construction as many times as is left (if any), in the manner determined by this article.



7. It is inadmissible to resubmit an application to receive a recommendation for the same violation. The state construction supervision body shall have the right to inspect the construction facility on its own initiative without an application submitted; and if violations are detected – to give a recommendation as determined in this article.

8. This article shall not apply to violations in relation to which an offence under Article 45 of this Code has already been detected, a construction proceeding is initiated or completed and the violations are not corrected. This article shall not apply in situations when an application for putting the fully constructed facility into operation within the statutory period has not been submitted to an appropriate body.

9. Implementation of the state and technical supervision process may be prematurely terminated:

a) at the project owner's request;

b) if the project owner has, in any way, hindered implementation of the state and technical supervision process or a representative of the state construction supervision body implementing supervision;

c) in the case of failure to comply with the recommendation, when implementation of the state and technical supervision process provides only for one inspection and/or if the recommendation in relation to the last inspection has not been fulfilled.

10. A decision on premature termination of implementation of the state and technical supervision process shall be made by the state construction supervision body within 15 days after the circumstances referred to in paragraph 9 of this article or submitting the application.

11. If implementation of the state and technical supervision process is prematurely terminated, the state construction supervision body shall initiate a construction proceeding on violations referred to in the given recommendation as determined under Article 25(23) of this Code.

*Law of Georgia No 6541 of 22 June 2012 - website, 26.6.2012*

**[Article 25<sup>1</sup> – (Deleted) (Shall become effective from 3 June 2019)]**

*Law of Georgia No 3220 of 20 July 2018 – website, 13.8.2018*

## **Article 26 – Liability for construction offences**

1. An offender must pay a fine imposed for committing a construction offence within 30 days after the resolution on imposition of a fine is served on the offender.

2. If an offender fails to pay the imposed fine (except for triple fines under paragraph 4 of this article), after expiry of the period set in the first paragraph of the same article, the offender shall be charged a penalty in the amount of a fine determined by the resolution on imposition of a fine.

3. A fine shall be imposed on the entities participating in construction activities (regardless of their legal form) that are deemed to be the project owners or that combine functions of project owners and contractors:

a) for violations in construction activities;

b) for violation of organisational rules established in construction activities.

4. In the case of failure to eliminate the legal grounds for imposing a fine, upon expiry of every three months after imposition of the fine, a penalty of triple the amount of the fine shall be imposed on the persons defined in paragraphs 1 and 3 of this article, which may be imposed on an offender no more than three times.

4<sup>1</sup>. When committing construction offences under Article 44 and Article 45(1) of this Code in relation to buildings assigned to grade 5 structures as defined by the legislation of Georgia, based on a substantiated request of an interested person, and in the state and public interests, the Government of Georgia shall, in order to promote an investment environment, based on a proposal by the Ministry of Economy and Sustainable Development of Georgia, and taking account of public and private interests, be entitled to release a person from a fine imposed under paragraph 4 of this article, if this person has paid a fine imposed for committing a respective construction offence.

5. In the case of alienation of land, a resolution on imposition of a fine shall be enforced under the procedures determined by the law of Georgia on Enforcement Proceedings, and the liability to correct violations shall rest on a new owner.

6. If the fine provided in paragraph 4 of this article is not paid voluntarily, an authorised body of an appropriate self-governing unit shall be entitled to arrange the sale of the land of the facility being constructed in breach of the legislation of Georgia within an area of special construction regulation by conducting an auction.

7. An authorised body of a self-governing unit shall conduct an auction in compliance with requirements for the



procedures established under this Code, the law of Georgia on Enforcement Proceedings, and by the representative body of the self-governing unit.

[ 7. (Deleted – 20.7.2018, No 3220). *(Shall become effective from 3 June 2019)*]

8. A construction permit issuing body shall be authorised to consider and make a decision under the procedures determined by the legislation of Georgia to legalise the facilities or their components constructed before 1 January 2007 without authorisation and/or in breach of the project, unless it contradicts the requirements of the legislation of Georgia, except for the requirements of an appropriate ordinance by the Government of Georgia on the Procedure for Issuance of Construction Permits and Permit Conditions.

*Law of Georgia No 2171 of 2 April 2014 - website, 14.4.2014*

*Law of Georgia No 3220 of 20 July 2018 – website, 13.8.2018*

## **Article 27 – Violation of safety rules during the operation of quarries, mines, delfts, tank farms, oil-trunk pipelines, gas-main pipelines, or hydro power plants**

1. Violation of the safety rules during the operation of quarries, mines, delfts, tank farms, oil-trunk pipelines, gas-main pipelines, or hydro power plants that has caused the 1<sup>st</sup> degree essential non-compliance, – shall be subject to a fine of GEL 150.

2. Violation of the safety rules during the operation of quarries, mines, delfts, tank farms, oil-trunk pipelines, gas-main pipelines, or hydro power plants that has caused the 2<sup>nd</sup> degree essential non-compliance, – shall be subject to a fine of GEL 300.

3. Violation of the safety rules during the operation of quarries, mines, delfts, tank farms, oil-trunk pipelines, gas-main pipelines, hydro power plants that has caused the 1<sup>st</sup> degree critical non-compliance, – shall be subject to a fine of GEL 1 500.

4. Violation of safety rules in the operation of quarries, mines, delfts, tank farms, oil-trunk pipelines, gas-main pipelines, hydro power plants that has caused the 2<sup>nd</sup> degree critical non-compliance, – shall be subject to a fine of GEL 3 000.

## **Article 27<sup>1</sup> – Violation of the requirements for video surveillance system installation and/or operation by refuelling stations or refuelling complexes (petrol station, gas station, or gas-filling station)**

Violation by refuelling stations or refuelling complexes (petrol station, gas station, or gas-filling station) of the requirement for video surveillance system installation and/or operation that are established by the safety rules for refuelling stations and refuelling complexes laid down by an order of the Minister of Economy and Sustainable Development of Georgia, which has caused the 1<sup>st</sup> degree essential non-compliance, – shall be subject to a fine of GEL 2 000.

*Law of Georgia No 6606 of 29 June 2012 - website, 10.7.2012*

## **Article 28 – Violation of safety rules during oxygen production and other related explosive processes, liquid oxygen production, oxygen compression in tanks/cylinders, when operating ammonia-based refrigeration equipment used for business purposes, funiculars, cable ways, amusement parks, boiler installations, pressure vessels, and gas-filling and gas stations**

1. Violation of safety rules during oxygen production and other related explosive processes, liquid oxygen production, oxygen compression in tanks/cylinders, when operating ammonia-based refrigeration equipment used for business purposes, funiculars, cable ways, amusement parks, boilers, pressure vessels, and gas-filling and gas stations, which has caused the 1<sup>st</sup> degree essential non-compliance, – shall be subject to a fine of GEL 200.

2. Violation of the safety rules during oxygen production and other related explosive processes, liquid oxygen production, oxygen compression in tanks/cylinders, when operating ammonia-based refrigeration equipment used for business purposes, funiculars, cable ways, amusement parks, boilers, pressure vessels, and gas-filling and gas stations,) which has caused the 2<sup>nd</sup> degree essential non-compliance, – shall be subject to a fine of GEL 400.

3. Violation of safety rules during oxygen production and other related explosive processes, liquid oxygen production, oxygen compression in tanks/cylinders, when operating ammonia-based refrigeration equipment used for business purposes, funiculars, cable ways, amusement parks, boilers, pressure vessels, gas-filling and gas stations, which has caused the 1<sup>st</sup> degree critical non-compliance, – shall be subject to a fine of GEL 750.



4. Violation of safety rules during oxygen production and other related explosive processes, liquid oxygen production, oxygen compression in tanks/cylinders, when operating ammonia-based refrigeration equipment used for business purposes, funiculars, cable ways, amusement parks, boilers, pressure vessels, gas-filling and gas stations, which has caused the 2<sup>nd</sup> degree critical non-compliance, – shall be subject to a fine of GEL 1 500.

*Law of Georgia No 3004 of 26 December 2014 - website, 12.1.2015*

*Law of Georgia No 3484 of 29 April 2015 - website, 14.5.2015*

**Article 29 – Violation of safety rules during the operation of natural caves or grottos where people go down in an organised way, crane equipment, elevators and escalators**

1. Violation of safety rules during the operation of natural caves or grottos where people go down in an organised way, crane equipment, elevators and escalators, which has caused the 1<sup>st</sup> degree essential non-compliance, – shall be subject to a fine of GEL 50.

2. Violation of safety rules during the operation of natural caves or grottos where people go down in an organised way, crane equipment, elevators and escalators, which has caused the 2<sup>nd</sup> degree essential non-compliance, – shall be subject to a fine of GEL 100.

3. Violation of safety rules during the operation of natural caves or grottos where people go down in an organised way, crane equipment, elevators and escalators, which has caused the 1<sup>st</sup> degree critical non-compliance, – shall be subject to a fine of GEL 500.

4. Violation of safety rules during the operation of natural caves or grottos where people go down in an organised way, crane equipment, elevators and escalators, which has caused the 2<sup>nd</sup> degree critical non-compliance, – shall be subject to a fine of GEL 1 000.

*Law of Georgia No 3004 of 26 December 2014 - website, 12.1.2015*

**Article 30 – Secret operation of quarries, mines, delfts, tank farms, oil-trunk pipelines, gas-main pipelines, hydro power plants (including technological processes, technical products, mechanisms, equipment, devices and any combination of them)**

1. Secret operation of quarries, mines, delfts, tank farms, oil-trunk pipelines, gas-main pipelines, hydro power plants (including technological processes, technical products, mechanisms, equipment, devices and any combination of them), – shall be subject to a fine of GEL 2 000.

2. The same action committed repeatedly, – shall be subject to a fine of GEL 4 000.

**Article 31 – Secret implementation of oxygen production and other related explosive processes, liquid oxygen production, oxygen compression in tanks/cylinders, operation of ammonia-based refrigeration equipment used for business purposes, funiculars, cable ways, amusement parks, boiler installations, pressure vessels, and gas-filling and gas stations**

1. Secret implementation of oxygen production and other related explosive processes, liquid oxygen production, oxygen compression in tanks/cylinders, operation of ammonia-based refrigeration equipment used for business purposes, funiculars, cable ways, amusement parks, boiler installations, pressure vessels, and gas-filling and gas stations, – shall be subject to a fine of GEL 1 000.

2. The same action committed repeatedly, – shall be subject to a fine of GEL 2 000.

*Law of Georgia No 3004 of 26 December 2014 - website, 12.1.2015*

*Law of Georgia No 3484 of 29 April 2015 - website, 14.5.2015*

**Article 32 – Secret operation of natural caves or grottos where people go down in an organised way, crane equipment, elevators and escalators**

1. Secret operation of natural caves or grottos where people go down in an organised way, crane equipment, elevators and escalators, – shall be subject to a fine of GEL 500.

2. The same action committed repeatedly, – shall be subject to a fine of GEL 1 000.

*Law of Georgia No 3004 of 26 December 2014 - website, 12.1.2015*





**Article 33 – Failure to carry out periodic technical inspection of quarries, mines, delfts, tank farms, oil-trunk pipelines, gas-main pipelines, hydro power plants**

1. Failure to carry out periodic technical inspection of the facility by the owners of quarries, mines, delfts, tank farms, oil-trunk pipelines, gas-main pipelines, hydro power plants (except for the failure due to an inspection body), – shall be subject to a fine of GEL 2 000.
2. The same action committed repeatedly, – shall be subject to a fine of GEL 4 000.

**Article 34 – Failure to carry out periodic technical inspection of oxygen production and other related explosive processes, liquid oxygen production, oxygen compression in tanks/cylinders, ammonia-based refrigeration equipment used for business purposes, funiculars, cable ways, amusement parks, boiler installations, pressure vessels, and gas-filling and gas stations**

1. Failure to carry out periodic technical inspection of a facility by the owners of oxygen production and other related explosive processes, liquid oxygen production, oxygen compression in tanks/cylinders, ammonia-based refrigeration equipment used for business purposes, funiculars, cable ways, amusement parks, boilers, pressure vessels, and gas-filling and gas stations (except for the failure due to an inspection body), – shall be subject to a fine of GEL 750.

2. The same action committed repeatedly, – shall be subject to a fine of GEL 1 500.

*Law of Georgia No 3004 of 26 December 2014 - website, 12.1.2015*

*Law of Georgia No 3484 of 29 April 2015 - website, 14.5.2015*

**Article 35 – Failure to carry out periodic technical inspection of natural caves or grottos where people go down in an organised way, crane equipment, elevators and escalators**

1. Failure to carry out periodic technical inspection of the facility by the owners of natural caves or grottos where people go down in an organised way, crane equipment, elevators and escalators (except for the failure due to an inspection body), – shall be subject to a fine of GEL 500.
2. The same action committed repeatedly, – shall be subject to a fine of GEL 1 000.

*Law of Georgia No 3004 of 26 December 2014 - website, 12.1.2015*

**Article 36 – Failure by the facility owners to report to the Technical and Construction Supervision Agency about breakdowns/accidents in quarries, mines, delfts, tank farms, oil-trunk pipelines, gas-main pipelines, or hydro power plants**

1. Failure by the facility owners to immediately (within 24 hours) report to the Technical and Construction Supervision Agency about breakdowns/accidents in quarries, mines, delfts, tank farms, oil-trunk pipelines, gas-main pipelines, hydro power plants – shall be subject to a fine of GEL 1 000.
2. Failure by the owners of the facilities referred to in the first paragraph of this article to report to the Technical and Construction Supervision Agency about breakdowns/accidents within 72 hours – shall be subject to a fine of GEL 2 000.

**Article 37 – Failure by the facility owners to report to the Technical and Construction Supervision Agency about breakdowns/accidents during oxygen production and other related explosive processes, liquid oxygen production, oxygen compression in tanks/cylinders, on ammonia-based refrigeration equipment used for business purposes, funiculars, cable ways, amusement parks, boiler installations, pressure vessels, and gas-filling and gas stations**

1. Failure by the facility owners to immediately (within 24 hours) report to the Technical and Construction Supervision Agency about breakdowns/accidents during oxygen production and other related explosive processes, liquid oxygen production, oxygen compression in tanks/cylinders, on ammonia-based refrigeration equipment used for business purposes, funiculars, cable ways, amusement parks, boiler installations, pressure vessels, and gas-filling and gas stations, – shall be subject to a fine of GEL 500.
2. Failure by the facility owners to report to the Technical and Construction Supervision Agency about breakdowns/accidents during oxygen production and other related explosive processes, liquid oxygen production, oxygen compression in tanks/cylinders, on ammonia-based refrigeration equipment used for business purposes, funiculars, cable ways, amusement parks, boiler installations, pressure vessels, and gas-filling and gas stations within 72 hours, – shall be subject to a fine of GEL 750.

*Law of Georgia No 3004 of 26 December 2014 - website, 12.1.2015*

*Law of Georgia No 3484 of 29 April 2015 - website, 14.5.2015*



**Article 38 – Failure by the facility owners to report to the Technical and Construction Supervision Agency about breakdowns/accidents in natural caves or grottos where people go down in an organised way, on crane equipment, elevators and escalators**

1. Failure by the facility owners to immediately (within 24 hours) report to the Technical and Construction Supervision Agency about breakdowns/accidents in natural caves or grottos where people go down in an organised way, on crane equipment, elevators and escalators, – shall be subject to a fine of GEL 50.

2. Failure by the facility owners to report to the Technical and Construction Supervision Agency about breakdowns/accidents on crane equipment, elevators and escalators, – shall be subject to a fine of GEL 100.

*Law of Georgia No 3004 of 26 December 2014 - website, 12.1.2015*

**Article 39 – Use of industrial explosive materials without proper permission**

The use of industrial explosive materials without proper permission – shall be subject to a fine of GEL 1 000.

**Article 40 – Violation of permit conditions for the use of industrial explosive materials**

Violation of permit conditions for the use of industrial explosive materials – shall be subject to a fine of GEL 500.

**Article 41 – Violation of time limit for correction of non-compliance**

Violation of time limit for correction of non-compliance by the facility owner – shall be subject to a fine of GEL 1 000.

**Article 42 – Conduct of inspections by independent inspection bodies without accreditation and violation of the principle of impartiality by inspection bodies**

1. Conduct of an inspection by an independent inspection body without accreditation – shall be subject to a fine of GEL 3 000.

2. The same action committed repeatedly, – shall be subject to a fine of GEL 9 000.

3. Violation of the principle of impartiality by an inspection body – shall be subject to a fine of GEL 3 000 and revocation of accreditation.

**Article 42<sup>1</sup> – Interference by an economic operator with the process of surveillance of the marketed products carried out by the Technical and Construction Supervision Agency**

Interference by an economic operator with the process of surveillance of the marketed products carried out by the Technical and Construction Supervision Agency –

shall be subject to a fine of up to GEL 1000.

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*

*Law of Georgia No 3690 of 31 October 2018 – website, 7.11.2018*

**Article 42<sup>2</sup> – Failure of an economic operator to comply with a resolution of the Technical and Construction Supervision Agency on suspension of sale of a product**

Failure of an economic operator to comply with a resolution of the Technical and Construction Supervision Agency on suspension of sale of a product –

shall be subject to a fine of up to GEL 1500.

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*

*Law of Georgia No 3690 of 31 October 2018 – website, 7.11.2018*

**Article 42<sup>3</sup> – Failure of an economic operator to comply with a resolution of the Technical and Construction Supervision Agency on removal of a product/products from the market**



Failure of an economic operator to comply with a resolution of the Technical and Construction Supervision Agency on removal of a product/products from the market –

shall be subject to a fine of up to GEL 3000.

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*

*Law of Georgia No 3690 of 31 October 2018 – website, 7.11.2018*

#### **Article 42<sup>4</sup> – Failure of an economic operator to comply with a resolution of the Technical and Construction Supervision Agency on recall of a product/products**

Failure of an economic operator to comply with a resolution of the Technical and Construction Supervision Agency on recall of a product/products –

shall be subject to a fine of up to GEL 5000.

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*

*Law of Georgia No 3690 of 31 October 2018 – website, 7.11.2018*

#### **Article 42<sup>5</sup> – Failure of an economic operator to comply with a resolution of the Technical and Construction Supervision Agency on destruction of a product/products**

Failure of an economic operator to comply with a resolution of the Technical and Construction Supervision Agency on destruction of a product/products –

shall be subject to a fine of up to GEL 7000.

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*

*Law of Georgia No 3690 of 31 October 2018 – website, 7.11.2018*

#### **Article 42<sup>6</sup> – Administrative proceedings in relation to market surveillance**

1. In the case of administrative offences specified in Articles 42<sup>1</sup> – 42<sup>5</sup> of this Code, the Technical and Construction Supervision Agency shall draw up an administrative offence report.

2. The cases of administrative offences specified in Articles 42<sup>1</sup> – 42<sup>5</sup> of this Code shall be reviewed by a district (city) court.

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*

*Law of Georgia No 3690 of 31 October 2018 – website, 7.11.2018*

#### **Article 43 – Implementation of unauthorised construction, reconstruction and/or dismantling**

Implementation of an unauthorised construction, reconstruction and/or dismantling at:

- a) a self-governing city, except for the area referred to in Article 44 of this Code, – shall be subject to a fine of GEL 3 000;
- b) a municipal settlement – town, except for the area referred to in Article 44 of this Code, – shall be subject to a fine of GEL 2 000;
- c) a municipal settlement – township or village, except for the area referred to in Article 44 of this Code, – shall be subject to a fine of GEL 200.

#### **Article 44 – Unauthorised construction, reconstruction and/or demolition activities within the areas of special construction regime where the exclusive regime for performance of construction is established, as well as within the territories defined under the forest reserves and the Law of Georgia on Water, within cultural heritage protection areas, resort and recreational areas, and in the territory of Tbilisi city**

1. Unauthorised construction and/or reconstruction activities within an area of special construction regime where the exclusive regime for performance of construction is established, as well as within the territories defined under the forest reserves and the Law of Georgia on Water, within cultural heritage protection areas, resort and recreational areas, and in the territory of Tbilisi city that cause changes to the total dimensions of a building or a structure, shall be subject to a fine



of:

a) GEL 25 000, on the real property of the state or self-governing unit;

b) GEL 8 000, on private real property, except for buildings or structures provided for by subparagraph (c) of this paragraph;

c) GEL 20 000, on private real property, namely Grade III or IV buildings or structures.<sup>2</sup> Unauthorised construction, reconstruction and/or demolition activities without changing total dimensions of a building or a structure, or unauthorised reconstruction of engineering and utility networks – shall be subject to a fine of GEL 4 000.

**Note :**

1. Unauthorised construction activities on real property, which is a facility of private or state joint ownership, or joint ownership of with a self-governing unit, shall be subject to a fine according to paragraph 1(a) of this Article.

2. Changing the total dimensions shall be considered to be construction activities that tend to change parameters of a building or structure foundations, enclosing structures and/or roofing (addition to the structure, additional storey, increasing the height of a building or a structure, etc.) , and the facility that has been created as a result of the construction is an essential component of a building or a structure which cannot be separated without destroying the entire building or structure or this component, and/or without eliminating their purpose.

*Law of Georgia No 2051 of 7 March 2018 - website, 21.3.2018*

**Article 45 – Violation of and/or non-compliance with permit conditions**

1. Violation of and/or non-compliance with permit conditions determined under the construction documentation and construction regulations shall be subject to a fine of:

a) within an area of special construction regime where the exclusive regime for performance of construction is established, as well as within the territories defined under the forest reserves and the Law of Georgia on Water, within cultural heritage protection areas, resort and recreational areas, and in the territory of Tbilisi city:

a.a) GEL 2 000 for Grade II buildings or structures;

[ a.a) (Deleted – 20.7.2018, No 3220). *(Shall become effective from 3 June 2019)*]

a.b) GEL 10 000 for Grade III buildings or structures;

[ a.b) (Deleted – 20.7.2018, No 3220). *(Shall become effective from 3 June 2019)*]

a.c) GEL 15 000 for Grade IV buildings or structures;

[ a.c) (Deleted – 20.7.2018, No 3220). *(Shall become effective from 3 June 2019)*]

a.d) GEL 20 000 for Grade V buildings or structures;

b) GEL 1 000 in a self-governing city, except for the area referred to in subparagraph (a) of this paragraph;

c) GEL 500 in a municipal settlement – town, except for the area referred to in subparagraph (a) of this paragraph;

d) GEL 200 in a municipal settlement – township or village, except for the area referred to subparagraph (a) of this paragraph;

2. If, during construction or reconstruction of a Grade II single family house (except for a cultural heritage monument), an offender violates and/or fails to comply with the permit conditions, but makes appropriate changes to the construction project documentation before initiating a construction proceeding, he/she shall not bear responsibility under the first paragraph of this article.

[ 2. (Deleted – 20.7.2018, No 3220). *(Shall become effective from 3 June 2019)*]

3. During construction or reconstruction of a Grade II single family house (except for a cultural heritage monument), an appropriate state architectural and construction supervision body shall notify an offender 45 calendar days before issuing a directive to initiate a construction proceeding.

[ 3 (Deleted – 20.7.2018, No 3220). *(Shall become effective from 3 June 2019)*]

*Law of Georgia No 2051 of 7 March 2018 - website, 21.3.2018*

*Law of Georgia No 3220 of 20 July 2018 – website, 13.8.2018*

**Article 46 – Responsibility for failure to complete construction works or construction stages within the time limit set**



#### **under construction permit within area(s) established by self-governing units**

1. In case of failure to complete construction works or construction stages within the time limit set under the construction permit in area(s) established under a resolution by the local Assembly – Sakrebulo within a self-governing unit to protect cultural heritage, develop recreational areas, and promote spatial-territorial planning in settlements, and in Tbilisi city – in the areas within an area of particular construction regulation determined under a resolution by the Tbilisi city Sakrebulo, a state construction supervision body shall issue a directive in relation to an offender setting a reasonable time limit to correct a violation. After expiry of the time limit under the directive, the state construction supervision body shall draw up an inspection protocol. If the violation is not corrected, a fine shall be imposed on the offender for each overdue day for the period from the inspection protocol date until the violation correction date, within the limits of GEL 0,1 to GEL 0,5 per each square meter of the total area of a building or structure to be constructed (demolished) under the construction project for the date of the inspection protocol, according to the corresponding area(s) determined under a normative act by an appropriate representative body of a self-governing unit. The fine shall be imposed on the offender for the preservation period of a facility under construction.
2. An offender shall be obliged to notify in writing a state construction supervision body of correcting the violation. Imposition of a fine under the first paragraph of this article shall be terminated on the day of submitting the notice of correction to the state construction supervision body only if the inspection body has confirmed correction of the violation by the inspection protocol.
3. After confirmation of correction of a violation by the state construction supervision body, the Body shall adopt a resolution on the amount of an imposed fine.
4. The resolution provided in the third paragraph of this article shall be enforced according to this Code and be subject to compulsory execution under the law of Georgia on Enforcement Proceedings.

*Law of Georgia No 1961 of 5 February 2014 - website, 19.2.2014*

#### **[Article 46 – (Deleted) (Shall become effective from 3 June 2019)]**

*Law of Georgia No 3220 of 20 July 2018 – website, 13.8.2018*

#### **Article 47 – Responsibility for failure to obtain construction permits within the set time limit for the development of non-functioning/abandoned buildings or structures within the area(s) established by self-governing units**

1. An owner of a non-functioning/abandoned building or structure within the area(s) established under a resolution by the local Assembly – Sakrebulo within a self-governing unit to protect cultural heritage, develop recreational areas, and promote spatial-territorial planning in settlements, and in Tbilisi city – in the areas within an area of particular construction regulation determined under a resolution by the Tbilisi city Sakrebulo, which are no longer used for residential, commercial or public purposes and need constructional development, shall be obliged to obtain a construction permit within six months after the date when the ownership rights to the building or structure were registered and/or the building or structure ceased functioning. This obligation shall also apply to a case when a person purchases a land plot and destroys a building or structure on it. This restriction shall be registered with public register at the request of an appropriate local self-government body.
2. Calculation of the time limit provided in the first paragraph of this article shall not stop and continue to run even when the land plot and/or a building or structure are alienated, and the relevant liabilities shall be transferred to the vendee in possession.
3. In case of failure to obtain a construction permit within the time specified in the first paragraph of this article, the state construction supervision body shall issue a directive in relation to an offender setting a reasonable time limit to correct a violation.
4. After expiry of the time limit under the directive, the state construction supervision body shall draw up an inspection protocol. If the violation is not corrected, a fine shall be imposed on the offender for each overdue day for the period from the inspection protocol date until the violation correction date, within the limits of GEL 0.1 to GEL 0.5 per each square meter of the total area of a building or structure in his/her possession, according to the corresponding subarea(s) determined under a normative act by an appropriate body of a self-governing unit.
5. Imposition of a fine under paragraph 4 of this article shall be terminated on the day when an offender obtains a construction permit but not later than six months after the directive is issued.
6. Six months after the state construction supervision body confirms correction of a violation or draws up an inspection protocol, it shall adopt a resolution on the amount of an imposed fine to be enforced according to this Law and be subject to compulsory execution under the law of Georgia on Enforcement Proceedings.



7. If an offender has not obtained a construction permit after expiry of six months from drawing up an inspection protocol and/or fails to pay the fine imposed, an authorised body of an appropriate self-governing unit shall be entitled to adopt a resolution on compulsory sale of this property. This resolution shall be enforced immediately and be subject to compulsory execution according to the law of Georgia on Enforcement Proceedings.

8. Calculation of the time frame under this article for the vendee in possession of real property alienated according to paragraph 7 of this article shall commence from the beginning, from the date when he/she purchases the property.

9. If an offender applies to a construction permit issuing body for a construction permit within the time limit under this article, this Body shall be obliged, within the scope of its authority, to assist the offender to the maximum extent in developing an architectural design corresponding to the image of an area, and in obtaining a construction permit.

*Law of Georgia No 1961 of 5 February 2014 - website, 19.2.2014*

**[Article 47 – (Deleted) (Shall become effective from 3 June 2019)]**

*Law of Georgia No 3220 of 20 July 2018 – website, 13.8.2018*

#### **Article 48 – Failure to place notice boards at facilities or placement of incomplete information on notice boards**

Failure to place a notice board at a facility or placement of incomplete information on a notice board:

a) within an area of special construction regime where the exclusive regime for performance of construction is established, on territories defined under the forest reserves and the Law of Georgia on Water, cultural heritage protection areas, resort and recreational areas, and on the Tbilisi city territory – shall be subject to a fine of GEL 1 000.

b) in a self-governing city, except for an area referred to in subparagraph (a) of this article, – shall be subject to a fine of GEL 500;

c) in a municipal settlement – town, except for an area referred to in subparagraph (a) of this article, – shall be subject to a fine of GEL 200;

d) in a municipal settlement – township or village, except for the area referred to in subparagraph (a) of this article; shall be subject to a fine of GEL 50.

#### **Article 49 – Violation of construction safety rules**

Violation of construction safety rules:

a) within an area of special construction regime where the exclusive regime for performance of construction is established, on territories defined under the forest reserves and the Law of Georgia on Water, cultural heritage protection areas, resort and recreational areas, and on the Tbilisi city territory – shall be subject to a fine of GEL 30 000;

b) in a self-governing city, except for an area referred to in subparagraph (a) of this article, – shall be subject to a fine of GEL 500;

c) in a municipal settlement – town, except for the area referred to in subparagraph (a) of this article, – shall be subject to a fine of 200 GEL;

d) in a municipal settlement – township or village, except for the area referred to in subparagraph (a) of this article, – shall be subject to a fine of GEL 50.

*Law of Georgia No 2051 of 7 March 2018 - website, 21.3.2018*

#### **Article 50 – Abandonment of facilities under construction in violation of established procedure**

Abandonment of a facility under construction in violation of an established procedure:

a) within an area of special construction regime where the exclusive regime for performance of construction is established, on territories defined under the forest reserves and the Law of Georgia on Water, cultural heritage protection areas, resort and recreational areas, and on the Tbilisi city territory – shall be subject to a fine of GEL 10 000;

b) in a self-governing city, except for the area referred to in subparagraph (a) of this article, – shall be subject to a fine of GEL 5 000.

c) in a municipal settlement – town, except for the area referred to in subparagraph (a) of this article, – shall be subject to a fine of GEL 1 000.



d) in a municipal settlement – township or village, except for the area referred to in subparagraph (a) of this article, – shall be subject to a fine of GEL 200.

### **Article 51 – Failure to fulfil the resolution of the state construction supervision body to suspend construction**

Failure to comply with a resolution of a state construction supervision body to suspend construction:

a) within an area of special construction regime where the exclusive regime for performance of construction is established, on territories defined under the forest reserves and the Law of Georgia on Water, cultural heritage protection areas, resort and recreational areas, and on the Tbilisi city territory – shall be subject to a fine of GEL 50 000.

b) in a self-governing city, except for the area referred to in subparagraph (a) of this article, – shall be subject to a fine of GEL 1 000.

c) in a municipal settlement – town, except for the area referred to in subparagraph (a) of this article, – shall be subject to a fine of GEL 500.

d) in a municipal settlement – township or village, except for the area referred to in subparagraph (a) of this article, – shall be subject to a fine of GEL 200.

*Law of Georgia No 2051 of 7 March 2018 - website, 21.3.2018*

### **Article 52 – Failure to reconstruct or demolish the hazardous buildings or structures that directly endanger human life and/or health without being reconstructed or demolished**

Failure to reconstruct or dismantle those hazardous buildings that directly endanger human life and/or health without reconstructing or demolishing them:

a) within an area of special construction regime where the exclusive regime for performance of construction is established, on territories defined under the forest reserves and the Law of Georgia on Water, cultural heritage protection areas, resort and recreational areas, and on the Tbilisi city territory – shall be subject to a fine of GEL 5000.

b) in a self-governing city, except for the area referred to in subparagraph (a) of this article, – shall be subject to a fine of GEL 1 000.

c) in a municipal settlement – town, except for the area referred to in subparagraph (a) of this article, – shall be subject to a fine of GEL 500.

d) in a municipal settlement – township or village, except for the area referred to in subparagraph (a) of this article; shall be subject to a fine of GEL 200.

Note: If a facility owner has become aware that his/her property endangers life and/or health of the third parties, the owner shall be obliged to address to the appropriate bodies and notify them of the threat. An owner shall be obliged, to the extent possible, to take safeguards to avoid the threat. The liability under this article shall only be imposed on an owner if he/she fails to implement measures defined in this note.

### **Article 53 – Reimbursement of damages and costs**

1. Imposition of a fine shall not exempt an offender from liability to correct a violation and reimburse damages caused by the violation.

2. An official and another public servant of a state construction supervision body shall be held liable for a damage inflicted during fulfilment of their official duties as determined by the legislation of Georgia.

3. The persons who have paid costs for maintaining the exterior of buildings or structures they own or that are in their lawful possession, and for the safety of the construction site, if the costs have been caused by the failure to observe construction standards and conservation regime within the contiguous land plot during construction activities, shall have the right to claim reimbursement of the paid costs by the offender. In case of failure to agree on the reimbursement of costs, the dispute shall be reviewed in the court.

4. If the violation was not corrected within the set time limit, when failure to immediately correct the violation may prejudice the state or public interests, a state construction supervision body can make a justified decision to fulfil conditions of the directive on its own or through third parties and/or at its own expense. The decision may be appealed under the procedures determined by the legislation of Georgia. Appealing the decision shall not suspend its execution.

5. A state construction supervision body shall be obliged to demand that an offender reimburse costs paid according to



paragraph 4 of this article. If the offender refuses to voluntarily reimburse costs, the state construction supervision body has the right to apply to a court with the requirement to impose the incurred costs on the offender and make him/her pay.

*Law of Georgia No 4366 of 27 October 2015 - website, 11.11.2015*

*Law of Georgia No 160 of 21 December 2016 - website, 28.12.2016*

#### **Article 54 – Seizure and sale of the land of the facility being constructed in violation of the legislation of Georgia**

1. In the case provided in Article 26(2) of this Code, an authorised body of an appropriate self-governing unit shall have the right to apply to a court in order to seize the land of a facility being constructed by an offender in violation of the legislation of Georgia.
2. Seizure of the land on the basis of an application to a court by an authorised body of an appropriate self-governing unit shall be lifted immediately after the amount of a fine is fully paid.
3. Sale of the seized land plot of an offender shall be performed by an authorised body of an appropriate self-governing unit by conducting an auction.
4. An authorised body of an appropriate self-governing unit shall determine the time and place of the auction, for which purpose it makes a public statement through mass media 30 days before the auction. The statement must include:
  - a) the time and place of the auction;
  - b) the details of a land owner (first name and surname/name, address);
  - c) the name of the land for sale (a brief description of the property);
  - d) the starting price for a land plot, which is the market price of the seized property referred to in the writ of seizure;
  - e) that third persons that have rights to this land are obliged to present documents evidencing these rights before the auction;
  - f) the terms of the auction.
5. After making a public statement on conducting the auction, all interested natural and legal persons shall have the right to preview the land before it is offered for sale at the auction.
6. Proceeds of the sale of the land shall be used, in the first place, to cover:
  - a) costs related to the seizure and sale;
  - b) the amount of the fine.
7. Funds remaining after covering the first-order expenses and amounts from proceeds of sale of the land shall be returned to the offender.
8. Sale of the seized plot shall be terminated if the offender, before conducting an auction, shall cover the amount of the fine, and costs of the seizure and sale.
9. An appropriate representative body of a local self-governing unit shall establish a procedure for sale of a seized land by auction.

### **Chapter V – Technical Regulations**

#### **Article 55 – General Provisions**

1. Technical regulations should facilitate open market economy and free trade. Adoption or use of technical regulations must not create inadequate technical barriers in trade/commercial activities, including in international trade, and must be proportionate to the safety of human life and health, and to the threat to environmental protection.
2. The product, for which compliance with the requirements of technical regulations is established by the legislation of Georgia, must comply with these requirements during its placement on the market and the operation in accordance with the legislation of Georgia.
3. Market placement of a product that meets the requirements of the technical regulations may not be prohibited, restricted or impeded.
4. A manufacturer shall be obliged to design a product regulated under the technical regulations, and manufacture it





according to the requirements of technical regulations.

## **Article 56 – Technical Regulations**

1. Any binding acts containing technical standards must be adopted in the form of technical regulations.
2. Technical Regulations determine the main principles for the protection of human health, life, property, and the environment.
3. Requirements of technical regulations may apply to products during their placement on the market, as well as to processes, services, persons and facilities and may include their period of beginning to operate and operating period, if so specified in the technical regulations.
4. The safety standards provided in the technical regulations must be proportionate to the threat.
5. If several technical regulations of the applicable technical regulations alternatively regulate the same product and/or process, compliance with any of them shall be sufficient.
6. If there is a difference between the accepted, recognised, or taken as equivalent technical regulations, this shall not be considered as a conflict between them and all of them shall be equally applied.
7. If safety features of several alternative technical regulations can be applied to the same product and/or process, then only one selected technical regulation must be applied. Application of a mix/combination of features of different technical regulations to the same product and/or process shall be inadmissible.
8. If the requirements of more than one technical regulation are simultaneously binding on the same product, then the product must meet the requirements of all the technical regulations.
9. Technical regulations shall be deemed invalid, if there are no more circumstances or purposes that served as a basis for their adoption. In this case, any interested person may apply to the Government of Georgia with the request to cancel the technical regulations.
10. Any change of the basis for adoption of a technical regulation shall entail a change or cancellation of the technical regulation.
11. Georgia recognises the technical regulations of the European Union in the regulated areas.
12. If there is a necessity to introduce technical regulations and there are universally recognised international standards, or their development is at a completion stage, Georgia shall be obliged to use them or their appropriate parts as a basis.
13. A technical regulation creating inadequate technical barriers of a threat to trade may be appealed in court.
14. An interested person may appeal against an applicable technical regulation in court, if he/she establishes more stringent requirements than the requirements in the best international practice.

## **Article 57 – The essence of technical regulations**

1. Technical regulations must contain the following basic provisions:
  - a) its scope of regulation and object of technical regulation;
  - b) basic concepts and definitions;
  - c) basic conditions for placement of products on the market;
  - d) requirements with respect to the object of technical regulation;
  - e) the conformity assessment procedures.
2. A technical regulation shall take effect from the moment of its registration with the registry of technical regulations.
3. Based on a particular specification, technical regulations may establish for a product/process/service mandatory:
  - a) features/ parameters;
  - b) security/safety criteria;
  - c) labour and/or customer's safety regulations;
  - d) method of developing the terminology, symbols, packaging, marking, and labelling related to the security/safety requirements, as well as of product-related process or production ;
  - e) conformity assessment procedures and periodicity;



- f) administrative procedures;
- g) rules of inspection and its periodicity, where appropriate;
- h) authorised supervisory body;
- i) directives for application of standards (presumption of conformity);
- j) operational conditions;
- k) transitional and final provisions.

### **Article 58 – Adoption of technical regulations**

1. Technical regulations shall be adopted only in cases directly specified by law and shall determine the aim and scope of the technical regulations.
2. Technical regulations shall be adopted only under law or by an ordinance of the Government of Georgia.
3. Interested persons shall have the right to:
  - a) claim that the technical regulations or standards that fail to comply with them be cancelled, or their conformity with the principles recognised in Georgia be provided;
  - b) apply to the Government of Georgia with a claim to cancel technical regulations.
4. The Government of Georgia, based on the application of an interested person, within its authority, shall file a petition with an appropriate body to provide conformity of the technical regulations or standards with the principles recognised in Georgia, or to cancel technical regulations or notify an interested person of the justified refusal under the procedures determined by the legislation of Georgia.
5. A justified refusal by the Government of Georgia of the petition to cancel technical regulations or standards or to provide their conformity with the principles recognised in Georgia may be appealed in court. The burden of proof in court shall transfer to the claimant.

*Law of Georgia No 1041 of 6 September 2013 - website, 23.9.2013*

### **Article 59 – Recognised technical regulations**

1. Technical regulations shall be recognised by the resolution of the Government of Georgia or on the basis of an international agreement and shall mean that the Government of Georgia allows the application of technical regulations of certain countries on the territory of Georgia.
2. Registration of foreign technical regulations with the registry of technical regulations shall only be mandatory if specific products are manufactured in Georgia in compliance with these technical regulations.
3. The Government of Georgia shall recognise only the technical parameters of foreign technical regulations and may recognise their administrative procedures.
4. Operation of the recognised technical regulations or their part may be banned or restricted by the law, if appropriately grounded.
5. Recognised technical regulations shall be part of the legislation of Georgia.

### **Article 60 – Technical regulations recognised as equivalents**

The Government of Georgia may, by a one-time act, recognise certain foreign technical regulations as equivalents, and they may be allowed for application. This shall prove that the mentioned technical regulations for the particular case adequately accomplish the safety objectives defined by the legislation of Georgia.

### **Article 61 – The registry of technical regulations**

1. Adopted technical regulations must be registered with the registry of technical regulations maintained by the Ministry of Justice of Georgia.
2. All normative acts of Georgia containing technical standards shall be registered with the registry of technical regulations. An adopting/issuing body/official of the normative acts shall be obliged to immediately ensure registration of an appropriate normative act with the registry of technical regulations.



3. Any person may request the registration of an adopted technical regulation.

#### **Article 62 – Placement of potentially unsafe products on the market**

1. The products/processes/services (regulated areas) that require conformity assessment when placed on the market shall be defined by law.
2. Market placement of products that conform to an adopted, recognised, or recognised as an equivalent technical regulation shall be possible on the basis of a document of conformity issued by an authorised body in the country of origin of product. This document must be submitted in Georgian or the English language.
3. Conformity assessment of products produced or imported on the basis of a recognised technical regulation, when placing them on the market, shall be carried out according to procedures established under the same technical regulation.
4. In case of litigation, an interested party shall translate the recognised technical regulation into the Georgian language.

#### **Article 63 – The right of the Government of Georgia to recognise markings as equivalent**

1. The Government of Georgia shall compile the list of countries and jurisdictions whose products with appropriate markings shall be allowed into Georgia without an additional conformity assessment.
2. An appropriate marking of another country that conforms to the marking requirements established by the legislation of a respective country shall be considered to be the compliance with the new approach technical regulations effective in Georgia.

### **Chapter VI – Standardisation**

#### **Article 64 – General Provisions**

1. The standard must be based on the generalised results of practical experience, science and technology, and must be intended to increase production efficiency and compatibility.
2. The standard is a means to meet the requirements of technical regulations.  
Use of a standard is voluntary. A manufacturer may develop and use other technical approaches to meet the requirements of technical regulations, except when a technical regulation directly specifies the use of a particular standard.

#### **Article 65 – Definitions of terms**

For the purposes of this Chapter, the terms shall have the following meanings:

- a) standard – a document developed on the basis of consensus and registered by the standards body. The document shall determine universal and multiuse rules, general principles or characteristics for various activities/actions or their results for optimisation in a certain field;
- b) international standard – a standard adopted by the International Organisation for Standardisation;
- c) regional standard – a standard adopted by the International Regional Standards Organisation;
- d) Georgian Standard (GES) – a standard registered by the Legal Entity under Public Law (LEPL) – the Georgian National Agency for Standards and Metrology and may be adopted on the basis of an international or regional standard, as well as by an appropriate technical committee;
- e) internal standard – a standard developed by an entrepreneur, which includes specific technical requirements met by a product, process or service. Internal standard shall not be deemed as a standard for other persons, it need not be registered and operation of this Code shall not apply to it;
- f) declared standard – a standard that a manufacturer uses and makes reference to its application, including to an internal standard.

#### **Article 66 – Basic principles of standardisation**

1. All interested parties (manufacturers, service providers, state and local self-government bodies, education and research institutions, customers, non-governmental organisations, etc.) can participate in the standardisation process voluntarily



and on a parity basis.

2. Standards shall be developed and adopted on the basis of consensus.
3. Use of a standard shall be voluntary.
4. The international and European standards shall be given preference within a respective field.
5. Modern scientific and technological capabilities shall be used in the development of standards.

#### **Article 67 – Principles for adoption of standards**

1. A standard shall be adopted in Georgia as a Georgian standard and registered under this chapter.
2. In Georgia other standards may be applied without registration.
3. The standard must not contradict the legislation of Georgia.
4. The following standards may be adopted as Georgian Standards:
  - a) a standard necessary for compliance with the requirements of effective technical regulations in Georgia. The LEPL Georgian National Agency for Standards and Metrology (the Agency) within the Ministry of Economy and Sustainable Development of Georgia shall ensure its adoption;
  - b) an international or regional standard. The technical committee shall review the Georgian version of the text of this standard;
  - c) a standard – in the case provided in Article 68 of this Code.
5. A standard under paragraph 4 of this article that an entrepreneur will use to meet the requirements of technical regulations must be registered as a Georgian Standard. However, at the request of an interested party, a standard registered in another country may be voluntarily registered.
6. The Agency shall register the standards provided in paragraph 4 of this article.
7. The technical committee shall not consider a standard developed in Georgia:
  - a) in a field where there is an international standard;
  - b) in a field where there is no high demand for a standard.
8. An international or foreign standard may be adopted as a Georgian Standard also by using the method of translating the 'Front Page' of a standard.

#### **Article 68 – Development and adoption of standards**

1. Any interested person may develop a draft standard in Georgia. If a person wishes to have a standard developed by him/her registered as a Georgian Standard, he/she must apply to the Agency with justification that there is a high demand for the standard in the field specified in the presented draft, except when the standard is intended to satisfy the requirements of technical regulations.
2. The Agency shall make a decision on the appropriateness of discussing the issue by a respective technical committee.
3. In the case of a positive decision by the Agency, it shall coordinate with the Ministry of Economy and Sustainable Development of Georgia the discussion of the issue by the respective technical committee.
4. The technical committee shall make a decision on the basis of consensus on the appropriateness of adopting a standard. In the case of adoption of a standard developed in Georgia, the Government of Georgia shall make a decision to allow its application based on a request of the technical committee.
5. A standard shall be granted a legal status after it is registered by the Agency with the registry of standards. The General Director of the Agency shall determine the procedure for maintaining the registry of standards and registration of standards.
6. The standard registration number in the registry of standards shall be generated according to the international codification. The first three letters of a registration number (GES) shall denote the Georgian Standard; the next two or three letters shall denote the name of an international or regional organisation whose standard is adopted as a Georgian Standard, if any; and further a sequential number of the standard is specified according to the procedure for maintaining the registry of standards and standards registration.
7. In the case of a negative decision by the Agency, an applicant shall have the right to appeal the decision to the Ministry of Economy and Sustainable Development of Georgia.



8. Acts (standards, regulations, etc.) establishing a marking procedure in other countries must be registered in Georgia as standards if products are produced in Georgia for the Georgian market.

## **Article 69 –Voluntariness and availability of standards**

1. To meet the requirements of technical regulations, selection of standards, including the methods, shall be voluntary, except when the obligation to comply with a specific standard is specified in the technical regulations.
2. A person can apply an internal standard or any other standard, if it complies with the requirements of technical regulations. In this case, the burden of proof of meeting the requirements of technical regulations shall be transferred to the manufacturer.
3. Liability for violating a declared standard shall be determined by the legislation of Georgia.
4. A registered standard in exchange for an adequate fee shall be available to any interested party.

## **Article 70 – Technical committee**

1. The Agency, in coordination with the Ministry of Economy and Sustainable Development of Georgia, shall establish technical committees according to the respective fields of standardisation. Interested parties shall participate in the operation of technical committees voluntarily and on a parity basis.
2. The function of technical committees shall be adoption of Georgian standards on the basis of consensus.
3. The procedure for creation of technical committees shall be established by an order of the Minister of Economy and Sustainable Development of Georgia, taking account of the best international practice.

## **Article 71 – The Agency**

Activities defined under this chapter and chapter VII of the same Code shall be performed by the Agency, which directs its activities based on the legislation of Georgia, including within the scope of authority as defined by the Statute of the Agency. The Minister of Economy and Sustainable Development of Georgia shall approve the Statute of the Agency.

## **Article 72 – The main functions of the Agency**

The main functions of the Agency shall be:

- a) maintenance of the registry of standards and provision for their publicity;
- b) maintenance of the registry of patterns of legalised measurement means;
- c) approval/recognition and verification of patterns of legalised measurement means;
- d) provision of information availability on the registered standards;
- e) provision of information exchange with appropriate international organisations on standards and technical regulations registered in Georgia;;
- f) representation of Georgia in international and regional organisations operating in the field of standardisation and metrology – within the scope of its authority;
- g) provision of fulfilment of obligations undertaken under international agreements concluded by Georgia in the field of standardisation and metrology;
- h) storage of the national standards, reproduction and transmission of unit sizes and provision of their traceability through calibration;
- i) development of methodology for the Agency's service fee calculation;
- j) exercise of other rights and fulfilment of obligations imposed on it under the legislation of Georgia.

## **Article 73 – Head of the Agency and his/her legal acts**

1. The Agency shall be managed by the General Director appointed and dismissed by the Minister of Economy and Sustainable Development of Georgia.
2. The Director General of the Agency, in accordance with the legislation of Georgia, within the scope of his/her



authority, in order to implement objectives of the law, shall issue normative acts – orders, and administrative-legal acts – decrees.

3. The General Director of the Agency shall direct daily activities of the Agency.

#### **Article 74 – Report of the Agency**

1. The agency shall be obliged to submit an annual report on the powers exercised and financial-economic activities performed to a body exercising state control.

2. The annual report of the Agency must be available to any person.

#### **Article 75 – Institute of Metrology**

1. There is a structural unit within the Agency –the Institute of Metrology powers of which shall be defined under this Code.

2. The Minister of Economy and Sustainable Development of Georgia shall appoint and dismiss the head of the Institute of Metrology upon recommendation of the General Director of the Agency.

#### **Article 76 –Property and funding of the Agency**

1. In order to achieve its intended objectives and to perform assigned functions, appropriate property shall be transferred to the Agency under procedures determined by the legislation of Georgia.

2. Sources of the Agency’s funding shall be:

a) the state budget of Georgia;

b) revenues received from the registration of standards and the sale of standards registered with the Agency;

c) income received from implementation of metrological activities as determined by the legislation of Georgia;

d) other income allowed by the legislation of Georgia.

3. The Government of Georgia shall approve the procedure for calculation of fees for the implementation of activities provided in paragraph 2(b, c) of this article.

4. Fees for the activity implemented in compliance with paragraph 2(d) of this article shall be determined under an agreement between the parties.

#### **Article 77 – The state control of the Agency**

1. The Ministry of Economy and Sustainable Development of Georgia shall exercise state control of the Agency.

2. Annual record keeping of and reporting on financial and economic activities of the Agency shall be examined by an independent auditor appointed by the Ministry of Economy and Sustainable Development of Georgia.

3. The Ministry of Economy and Sustainable Development of Georgia shall be authorised to inspect financial and economic activities of the Agency, and the legitimacy, appropriateness and effectiveness of the activities performed by the Agency.

4. The Minister of Economy and Sustainable Development of Georgia shall be authorised to suspend and/or terminate any unlawful act issued by the General Director of the Agency.

### **Chapter VII – Provision of Traceability of Measurements**

#### **Article 78 –General provisions**

This chapter establishes the legal bases for provision of traceability of measurements in Georgia, as well as the requirements for the measurement means:

a) that are used for the purposes of the Tax Code of Georgia and forensic examination;

b) measurement results of which are used for imposing administrative fines under the legislation of Georgia.



## Article 79 – Definitions of terms

For the purposes of this chapter, the terms shall have the following meanings:

- a) measurement unit – a specific value of the physical quantity obtained according to the Metric Convention, and which helps compare other homogeneous quantities with each other to express the relationship of their value with respect to this specific quantity;
- b) measurement means – technique used for measurement and which has standardised metrological characteristics;
- c) legalised measurement means – a measurement means subject to mandatory conformity assessment or metrological control;
- d) patterns of measurement means – a complete/full-featured model of a measurement means of a specific construction in compliance with the documentation;
- e) standard of measurement unit – a measurement means intended to reproduce, store and transmit a size of unit;
- f) calibration – a procedure performed under specified conditions, which, at the first stage, establishes the relationship between the values of quantities provided by the standards of measurement (with measurement uncertainties) and the respective readings (with related measurement uncertainties), and at the second stage, it uses this information to obtain measurement results from the readings through establishing the relationship.

Note: Calibration is voluntary and costs of calibration shall be imposed on a client. Measurements performed with a calibrated device shall not be used to impose administrative liability;

- g) traceability of measurement means – information about a specific measurement means used to establish connection between this measurement means and a respective standard of measurement unit through a continuous chain of comparisons/calibration, each of them having a known uncertainty;
- h) approval of legalised measurement means for use – primary placement of a measurement means on the Georgian market, including import, for distribution or use of the measurement means;
- h) initial verification – verification of a legalised measurement means which has not been previously verified, before being put into operation for the first time; also, verification of a repaired measurement means before putting it into operation after the repair;
- i) verification – a procedure which involves external examination of a measurement means, affixation of a verification mark and/or issuance of a verification certificate to prove that the measurement means comply with the established requirements.

## Article 80 – Legalised measurement means

1. Legalised measurement means shall be the measurement means determined under paragraph 2 of this article that are used for purposes of the Tax Code of Georgia and/or forensic examination, and the measurement results of which are used to impose an administrative fine defined under the legislation of Georgia.

2. The following periodicity shall be defined for compulsory verification of legalised measurement means:

- a) for alcometers, which are used for analysing alcohol in an exhaled air – 6 months;
- b) for water flow meters:
  - b.a) cold water – 6 years;
  - b.b) hot water – 4 years;
  - b.c) cold and hot water – 4 years;
- c) for automatic scales – 18 months;
- d) for non-automatic scales and weights used with the scales – 18 months;
- e) for flow measurement means used for liquids (other than water) – 1 year;
- f) for flow measurement means – for proportioning and metering mechanisms of fuel dispensers at filling stations, which are used for gases – 1 year;
- g) for gas meters:
  - g.a) with a maximum flow of  $Q_{MAX} \leq 10 \text{ m}^3/\text{h}$  – 10 years;



g,b) with a maximum flow of  $Q_{MAX} > 10 \text{ m}^3/\text{h}$  – 4 years;

h) for liquid level meters in vessels (tank, reservoir, etc.) – 2 years;

i) for noise meters – 18 months;

j) for speed meters – 1 year;

k) for electricity meters – 12 years;

l) for devices to determine light transmission of glass — 1 year.

3. Costs for initial verification of legalised measurement means determined under paragraph 2 of this article and for periodic compulsory verification shall be imposed on persons who use the measurement means to impose administrative fines, for purposes of the Tax Code of Georgia, and forensic examination. Users of measurement means may require performance of non-periodic verification. In this case, costs of verification shall be imposed on users.

4. The units of the International System of Units must be used when recording the results of measurements performed in the field specified in the first paragraph of this article.

5. To mark the packaged goods, along with the units of the International System of Units, additional symbols may be used that are expressed in units other than the units of the International System of Units.

6. Requirements for legalised measurement means and procedure for their storage shall be established by the technical regulations. Technical regulations shall also determine the classification of legalised measurement means taking account of the error rate.

7. Verification of legalised measurement means that are used for household purposes must not cause disruption in water, electricity or gas supply for their users if they have not requested performance of verification.

Note: paragraph 2(c,d) of this article shall not apply to the scales and weights used in retail and wholesale trade.

## **Article 81 – The state (national) standard**

1. The state (national) standard shall reproduce the value of a measurement unit with the highest precision, shall store it and constitute the basis for traceability and accuracy of measurements in Georgia.

2. The state (national) standard must be comparable to international standards or national standards of other countries or homogeneous to ensure compatibility (compliance) of measurements performed in Georgia and other countries.

3. The Agency shall ensure storage of the state (national) standard.

4. The Agency shall be obliged to publish information on the abandonment of the state (national) standard.

## **Article 82 – Approval and verification of patterns of measurement means**

1. Legalised measurement means (except for measurement means produced as a sample and/or imported as a sample) shall require the pattern approval and be subject to initial and periodic verification.

2. Measurement means introduced as single copies and for special purpose shall not require the pattern approval and be subject to initial and periodic verification.

3. The Agency shall approve the patterns of legalised measurement means.

4. The Agency or an accredited entity performing verification of legalised measurement means shall perform an initial and periodic verification of legalised measurement means. Verification shall be performed on the basis of technical regulations which must include the mechanisms for making, modifying and cancelling a respective decision.

5. The Agency shall be obliged, on the basis of an international agreement of Georgia, to recognise a pattern approved in another country and an initial verification (conformity assessment). The list of countries shall be compiled by the Government of Georgia.

6. The agency shall be authorised, during approving the pattern or performing initial verification of measurement means produced as single copies and for special purpose, to require that technical documentation of measurement means be submitted in the Georgian language.

7. The measurement means verification interval of which, as specified in the pattern approval documentation or the manufacturer's documentation, is less than the period set in Article 80(2) of this Code shall also be registered with the registry of patterns of legalised measurement means.

In this case, the verification interval shall be the period set under Article 80(2) of this Code.





### **Article 83 – Pattern approval mark**

1. After approval of the pattern, a manufacturer or importer shall be obliged to affix the national pattern approval mark on legalised measurement means or an enclosed document.
2. If measurement means require no pattern approval, a manufacturer or importer, on its own responsibility, may affix its own mark on measurement means. In this case, the mark must be clearly distinguished from the national pattern approval mark.
3. The national pattern approval mark must be affixed in a prominent place of measurement means. The pattern approval mark must be clear and must not be erasable.
4. The national pattern approval mark and the requirements for its affixation shall be established by technical regulations.

### **Article 84 – Verification of legalised measurement means**

1. Verification of legalised measurement means shall involve external examination, establishment of metrological characteristics, assessment and certification of their conformity with the approved pattern.
2. Periodic verification of legalised measurement means shall be performed after an initial verification at intervals determined under Article 80(2) of this Code.
3. If the Agency or an accredited entity performs verification outside its workplace, it shall be entitled to require that an applicant provide necessary conditions for performance of certification of measurement means.
4. If the verification results are positive, a respective verification certificate shall be issued and/or a respective verification mark shall be affixed on legalised measurement means. The requirements for affixation of a verification mark on legalised measurement means shall be established by the technical regulations.
5. Calculation of the validity period for verification of legalised measurement means shall commence from the verification date, which must be indicated in the verification certificate.
6. Verification of legalised measurement means shall be cancelled if:
  - a) the effective period of verification expires;
  - b) measurement means have undergone changes or modifications that can affect their metrological characteristics;
  - c) measurement means have become so damaged that it is possible to modify their metrological characteristics.
7. Verification procedures for legalised measurement means shall be established by the technical regulations.

### **Article 85 – Expert (official) measurements**

1. Expert (official) measurements shall be carried out in the case of a dispute concerning the measurement results, at the request of an interested party or a state body.
2. Expert (official) measurement procedure shall be established by the technical regulations.

### **Article 86 – The state registry**

1. The state (national) standards and the patterns of legalised measurement means must be registered with the state registry maintained by the Agency.
2. The form of the registry referred to in the first paragraph of this article and its maintenance procedure shall be established by the Agency.
3. The Agency shall be obliged to ensure constant update and publicity of information stored in the state registry.

## **Chapter VIII – Conformity Assessment**

### **Article 87 – Scope**

1. This Code establishes legal bases for conformity assessment of an object of conformity assessment – material, product, service, process, system, and person.



2. Assessment of conformity of an object of conformity assessment with the technical regulations and/or standards shall be carried out according to this Code.
3. An obligation to carry out conformity assessment shall be imposed if so directly provided by law or on the basis of an appropriate technical regulation, which intends to prevent damage to human life, health, property and the environment.
4. The requirement to carry out conformity assessment of products before placing them on the market shall be inadmissible, except when this requirement is based on an appropriate technical regulation.
5. A product having been repaired during market placement without changing its original function, type and purpose, shall not be subject to conformity reassessment, unless otherwise provided in the technical regulations.
6. Conformity assessment in the area other than the regulated area shall be voluntary, including when placing products on the market, and shall be carried out on the basis of an agreement between the parties.

## **Article 88 – Definitions of terms**

For the purposes of this chapter, the terms shall have the following meanings:

- a) recognition – recognition by an authorised person of the conformity assessment results of another person;
- b) unilateral recognition – recognition when one party adopts or recognises the conformity assessment results of the other party;
- c) bilateral recognition – recognition when each party adopts or recognises the conformity assessment results of the other party;
- d) multilateral recognition – recognition when more than two parties recognise the conformity assessment results of each party;
- e) certification – attestation of an assessment of conformity with certain requirements carried out by a certification body to confirm compliance of the object;
- f) declaration of conformity – a document by which a manufacturer can certify that products manufactured and/or placed on market correspond to the established requirements;
- g) testing (test) – definition of one or more characteristics of an object of conformity assessment according to the procedures;
- h) inspection – examination of product design documents, determination of compliance of a product, process or installation with the established requirements or, based on professional judgement, with the general requirements. Inspection of the process may involve the examination of a person, device, technology, and methodology.

## **Article 89 – Conformity assessment modules and sub-modules in the regulated areas**

1. Conformity assessment may be carried out in a regulated area with modules (sub-modules).
2. Conformity assessment modules and sub-modules in a regulated area shall be:
  - a) module A – Factory Production Control (FPA) – conformity assessment carried out by the manufacturer;
  - b) module B – conformity assessment of a sample of product (prototype) carried out by an authorised body;
  - c) module C – FPC-based conformity to the pattern – conformity assessment when an authorised body tests a specific characteristic of a product and randomly checks conformity of a product with established requirements;
  - d) module D – conformity to the pattern based on the production process quality assurance – conformity assessment when an authorised body checks the production quality system or its parts within a company, and supervises proper operation of the system;
  - e) module E – conformity to the pattern based on the product quality assurance – conformity assessment when an authorised body checks the product quality system or its parts within a company, and supervises the proper operation of the system;
  - f) module F – conformity based on checking of products – check of a product conformity with a certified pattern or the established requirements, which is performed by a manufacturer, importer, accredited or authorised body for every product or statistically selected sample;
  - g) module G – conformity based on checking of every product – check of conformity of every product with all established requirements by an authorised body;



h) module H – conformity based on full quality assurance – supervision by an authorised body of proper operation of the quality system within a company, and if necessary, assessment of the product conformity with the requirements of technical regulations at a design stage.

3. Conformity assessment modules and sub-modules and the related procedures shall be defined under an ordinance by the Government of Georgia.

4. Specific technical regulations shall define the conformity assessment module (sub-module) or their combination that specifies the sequence of actions when carrying out conformity assessment, results of which are considered to be evidence of the conformity of an object of conformity assessment with established requirements, and on the basis of which a conformity certification document is issued.

5. Placement of an object of conformity assessment on the market or its operation without a conformity certification document shall be inadmissible within a regulated area, if so provided for under the technical regulations.

6. A person placing an object of conformity assessment on the market within a regulated area shall be obliged, if requested, to submit to an interested person a conformity certification document of the object with the established requirements.

## **Article 90 – Conformity assessment bodies**

Duly accredited or other bodies authorised by the State, as well as conformity assessment bodies of the countries defined under an ordinance by the Government of Georgia, shall have the right to carry out conformity assessment within a regulated area according to the procedures determined by the Government of Georgia.

## **Article 91 – Conformity certification documents**

Conformity certification documents shall be:

a) Declaration of Conformity – a document by which a manufacturer can certify that an object of conformity assessment corresponds to the established requirements;

b) Certificate of Conformity – a document by which a certification body can prove that an object of conformity assessment corresponds to the established requirements;

c) certificate and/or protocol of inspection – a document by which an inspection body can or cannot confirm that an object of conformity assessment corresponds to the established requirements.

## **Article 92 – Conformity certification document issued abroad**

1. Conformity certification documents duly issued in the countries with proper product safety standards and developed infrastructure of quality shall be considered as recognised without additional procedures. In this case, conformity certification documents must be submitted in English or with notarised Georgian translation. The Georgian Government shall compile the list of these countries.

2. In the cases defined under the legislation of Georgia, conformity assessment shall be carried out by persons that are accredited in Georgia or in signatory countries to MRA (Mutual Recognition Agreement)/MLA (Multilateral Agreement on Mutual Recognition of Results), ILAC (International Laboratory Accreditation Cooperation), IAF (International Accreditation Forum), or EA (European Cooperation Accreditation) to perform conformity assessment.

## **Article 93 – Conformity mark**

1. A conformity mark shall show that conformity assessment of products has been carried out and the products conform to the requirements of the effective technical regulations.

2. A conformity mark shall be affixed to products in the cases specified in the technical regulations and in a specified form/manner.

3. A person authorised under the legislation of Georgia shall affix the conformity mark on products before placing them on the market.

4. Another mark may also be affixed on products unless it causes confusion with the conformity mark and diminishes its perception.



## **Article 94 – Product marking**

1. Product marking shall be the declaration by a responsible person that:
  - a) the product conforms to the new approach technical regulations and poses no threat to human life, health and/or property;
  - b) the product has undergone the conformity assessment procedures.
2. A mark must be clearly affixed on a product, be easily readable, and must not be easily erasable on the product or on the part containing the data about it. If this is not possible, the mark must be affixed to the product packaging as well as the accompanying documents, if so required under the technical regulations.
3. A product manufactured in Georgia for the Georgian market, which is regulated by the new approach technical regulations, must be manufactured according to these regulations. GE mark shall be affixed on such products.
4. Product marking rules and the form of a mark shall be established by an ordinance of the Government of Georgia.
5. Products with a CE mark, which certifies conformity with the requirements effective in the EU, shall be allowed in Georgia without additional conformity assessment procedures.

## **Article 95 – The period of limitation**

Conformity certification documentation shall be retained at least for six years from the last day of manufacturing the product, except when different time limit is set by the technical regulations or law.

## **Chapter IX – Accreditation**

### **Article 96 – Accreditation national systems**

1. Accreditation shall be an official expert assessment based on which the Legal Entity under Public Law – the Unified National Body of Accreditation – Accreditation Centre (the GAC), by means of issuing an accreditation certificate, officially recognises the competence of persons performing conformity assessments to carry out (specific) activities defined within an area of the conformity assessment. The GAC shall not be a conformity assessment body.
2. Accreditation shall be voluntary, except when the obligation of accreditation is directly prescribed by law.
3. The national accreditation system shall be based on unified rules and principles.
4. The GAC shall perform accreditation of various types of laboratories, certification bodies (except for a qualified trustworthy service provider under the Law of Georgia on Electronic Document and Electronic Trustworthy Service), inspection bodies (including periodic technical inspection centres, persons performing certification of legalised measurement means) in Georgia and outside its borders, if so requested by an interested party.

*Law of Georgia No 644 of 21 April 2017 – website, 10.5.2017*

*Law of Georgia No 1915 of 23 December 2017 – website, 28.12.2017*

### **Article 97 – The basis for accreditation**

1. Persons responsible for carrying out various conformity assessments shall obtain accreditation on the basis of the rules and procedures adopted by the GAC that are based on appropriate standards and guidelines adopted by the organisations internationally recognised in the field of accreditation.
2. Accreditation rules and procedures must be available to any interested person.
3. GAC shall carry out accreditation on the basis of an agreement concluded with an interested party.
4. When persons are granted accreditation, they shall be issued accreditation certificates.

### **Article 98 – Accreditation certificate and its validity period**

1. An accreditation certificate shall be a strictly accountable document. It shall be issued for a period specified by the GAC, which is common for one type of accredited person. An accreditation certificate shall be evidence of accreditation.
2. Accredited persons must comply with accreditation requirements during the accreditation period.



## **Article 99 – Accreditation Centre**

1. The Ministry of Economy and Sustainable Development of Georgia shall approve the statute, structure and staff list of the GAC.
2. A General Director shall manage the GAC. The Prime Minister of Georgia shall appoint and dismiss the General Director of the GAC upon recommendation of the Minister of Economy and Sustainable Development of Georgia.
3. The General Director of the GAC, in accordance with the legislation, within the scope of his/her authority, in order to implement objectives of the law, shall issue normative acts – orders and administrative-legal acts – decrees.
4. The GAC shall perform accreditation of persons carrying out conformity assessment, monitor and supervise the fulfilment of accreditation conditions by the accredited persons. The GAC shall also develop the accreditation rules and procedures.
5. The GAC shall carry out accreditation and monitoring on the basis of an agreement concluded with an interested person in exchange for a fixed fee. The Government of Georgia shall approve the amount of the fee and the procedure for fixing it.
6. The GAC, if necessary, shall create sectoral technical committees to render the GAC an advisory opinion when resolving specific technical issues.
7. The GAC shall review complaints with respect to accredited persons and claims related to accreditation on the basis of applications of interested persons.
8. The Ministry of Economy and Sustainable Development of Georgia shall exercise state control over the GAC. The Ministry shall have the right to require that the necessary materials and information be submitted to it.
9. The GAC shall prepare an annual report on its activities to be submitted to the National Accreditation Board and the Ministry of Economy and Sustainable Development of Georgia. The GAC shall provide access to the report for interested persons.
10. The GAC, within its scope of authority, shall:
  - a) represent Georgia in international and regional organisations;
  - b) establish relations with various organisations, persons and accredited bodies of other countries.
11. In order to achieve the set objectives and perform the imposed duties, appropriate property shall be transferred to the GAC, under the procedures determined by the legislation of Georgia.
12. Sources of the GAC funding shall be:
  - a) the state budget of Georgia;
  - b) income received from payment of fees for services rendered by the GAC. The Government of Georgia shall approve the procedure for fixing the fee, including:
    - b.a) the income received from carrying out accreditation and monitoring;
    - b.b) the income received from trainings held for interested persons under an agreement;
    - b.c) the income received from organising conferences;
  - c) the income received on the basis of an agreement;
  - d) other incomes permitted by the legislation of Georgia.

## **Article 100 – The National Accreditation Board**

1. The National Accreditation Board (NAB) shall be an advisory body to the GAC composed of various interested parties on a parity basis and which shall participate in the review and development of recommendations with respect to policy in the field of accreditation.
2. The Minister of Economy and Sustainable Development of Georgia shall approve the procedure for creation of the NAB and its rules of procedure.

## **Article 101 – The registry of accredited persons**

1. The NAB shall maintain and constantly update the registry of accredited persons and ensure its publicity.



2. General Director of the GAC shall approve the form of the registry of accredited persons and the procedure for its maintenance.

## **Article 102 – The national accreditation mark (logo)**

1. The national accreditation mark (logo) shall be an identification sign of the GAC which establishes the procedure for using the mark.

2. By using the national accreditation mark (logo), a conformity assessment body shall state that the GAC has been confirmed its competence and that it meets the accreditation requirements.

## **Chapter X – Transitional and final provisions**

### **Article 103 – Transitional provisions**

1. The appropriate agencies shall, before 31 December 2013, submit to the Government of Georgia the draft technical regulations to be adopted as a result of revising the effective technical regulations (norms, rules, instructions, requirements).

2. The Government of Georgia shall, before 1 April 2014, approve and publish the list of technical regulations that are effective/ registered in Georgia.

3. The Government of Georgia shall, once a year, publish an updated list of the effective technical regulations that are registered with the Registry of Technical Regulations.

4. The Government of Georgia shall, before 1 March 2013, develop and approve the list of countries technical regulations of which are allowed to operate in Georgia.

5. Any normative act, which is a technical regulation in essence, issued by a state body before entry of this Code into force, shall be subject to issuance in an appropriate form as determined in Article 57 of this Code, and to registration with the Registry of Technical Regulations.

6. Within six months from entry of this Code into force, the Government of Georgia shall define the procedure for maintenance of the departmental registry of facilities with an increased threat.

7. Within two months after entry of this Code into force, the Government of Georgia shall establish the criteria for selection of insurance companies for the appropriate liability insurance under Article 21(5) of the same Code, and the insurance procedures.

8. Within six months after entry of this Code into force, the Legal Entity under Public Law – the Unified National Body of Accreditation – Accreditation Centre shall ensure that the requirements of the same Code are considered in its normative acts.

9. The Government of Georgia shall, before 1 January 2013, ensure that the technical regulations under Article 18(7) of this Code are developed and duly adopted.

10. Within four months after entry of this Code into force, the Ministry of Economy and Sustainable Development of Georgia shall ensure that the liquidation activities of the state sub-agency – the Technical and Construction Inspection are duly implemented.

10<sup>1</sup>. Before the Legal Entity under Public Law (LEPL) – the Technical and Construction Supervision Agency is established and starts functioning, , the state sub-agency – the Technical and Construction Inspection under the Ministry of Economy and Sustainable Development of Georgia shall have the right to respond to an offence under Article 27<sup>1</sup> of this Code and impose an appropriate fine.

11. Within four months after entry of this Code into force, the Ministry of Economy and Sustainable Development of Georgia shall ensure implementation of appropriate activities to establish the LEPL Technical and Construction Supervision Agency.

12. Within three months after entry of this Code into force, the Minister of Economy and Sustainable Development of Georgia shall approve the statute and the staff list of the LEPL – Technical and Construction Supervision Agency.

13. The LEPL Technical and Construction Supervision Agency shall be considered to be a legal successor to the state sub-agency – the Technical and Construction Inspection under the Ministry of Economy and Sustainable Development of Georgia, except as provided in the fourteenth paragraph of this article.



14. The Ministry of Economy and Sustainable Development of Georgia shall be considered to be a legal successor to the state sub-agency – the Technical and Construction Inspection under the Ministry of Economy and Sustainable Development of Georgia in the part of financial obligations (remuneration of labour, other goods and services) emerged during 1998-2003.
15. The appropriate agencies shall, before 1 January 2014, ensure that the normative acts issued on the basis of legislative acts that were declared invalid under Article 104 of this Code comply with the Code.
16. The normative acts issued on the basis of legislative acts under Article 104 of this Code shall be in effect until the activities provided in paragraph 15 of this article are implemented.
17. Within two months after entry of this Code into force, the appropriate agencies shall ensure that appropriate changes are made to the normative acts regulating facilities with an increased technical threat to define non-essential, essential and critical non-compliances.
18. The Government of Georgia shall, before 1 March 2013, compile and approve the list of countries conformity certification documents of which, issued by the conformity assessment bodies, are recognised in Georgia.
19. The Government of Georgia shall, before 1 March 2013, develop and approve the rules to undergo conformity assessment procedure for objects of conformity assessment imported from countries that are not defined in the resolution referred to in paragraph 18 of this article.
20. The Government of Georgia shall, before 1 March 2013, compile the list of countries in which the products that are assigned to a regulated area are manufactured, and that will be placed on the Georgian market without restriction.
21. The Government of Georgia shall, before 1 June 2013, determine the conformity assessment modules and sub-modules and related procedures.
22. In accordance with the modules determined by Article 89 of this Code, the sub-modules shall be determined under the ordinance by the Government of Georgia.
23. The Government of Georgia shall compile a list of countries and jurisdictions the products of which, with an appropriate marking, will be allowed in Georgia without any additional conformity assessment procedures.
24. In order for the legislation of Georgia to comply with this Code, the Government of Georgia shall ensure that the appropriate draft legislative acts are submitted to the Parliament of Georgia before 31 December 2013.
25. Control over fulfilment of permit conditions under this Code with respect to the facilities of particular significance shall not be exercised until 2012.
26. This Code shall apply to all non-operating/abandoned, ruined buildings or structures that existed before entry of this Code into force and that will fall within the area defined under Article 47 of the same Code, and the six-month period starts to run from the day when the act adopted by the appropriate self-governing unit on defining the area under the first paragraph of the same article takes effect.
27. This Code shall also apply to construction proceedings under Article 46 and Article 47 of the same Code that were initiated before its entry into force.
28. A construction proceeding under Article 22 of the Law of Georgia on Control of Technical Threat and initiated before entry of this Code into force, for which the decision is pending, shall be completed under the procedure determined by Article 44 of the same Code.
29. The Legal Entity under Public Law (LEPL) – the Georgian National Agency for Standards and Metrology shall be a legal successor to the Legal Entity under Public Law (LEPL) – the Georgian National Agency for Standards, Technical Regulations and Metrology.
30. The standard of business entity (SBE) shall be considered to be the internal standard upon entry of this Code into force. No registration shall be required for it.
31. The Government of Georgia shall, before 15 November 2018, approve:
- a) the procedure for determining the categories of risks associated with a product;
  - b) the procedure for carrying out market surveillance by the LEPL Technical and Construction Supervision Agency;
  - c) the procedures for removing, recalling, suspending the sale of and destroying the products.

*Law of Georgia No 6606 of 29 June 2012 – website, 10.7.2012*

*Law of Georgia No 114 of 19 December 2012 – website, 27.12.2012*

*Law of Georgia No 2757 of 29 June 2018 – website, 19.7.2018*



## **Article 103<sup>1</sup> – Temporary rules for commissioning of constructions completed with violation**

1. An offending entity which was held liable for a construction offence under Article 45 of this Code before entry of this article into force (except for non-payment of the amount fixed for exceeding the land development rate (K-2)), and which has not paid or has partially paid the amount of a fine/penalty by the time this article becomes effective, shall be exempt from the obligation to pay the fine/penalty and/or its outstanding amount; and an offending entity which has committed a construction offence under Article 45 of this Code by the time this article becomes effective (except for non-payment of the amount fixed for exceeding the land development rate (K-2)), but no construction proceeding has been initiated against it, or a construction proceeding has been initiated but no decree has been issued, shall be exempt from liability under this Code if the construction offence they committed has been corrected by the time this article becomes effective or will be corrected within six months from entry of this article into force, under procedures determined by the legislation of Georgia.

2. In the cases specified in the first paragraph of this article, an inspection to correct a construction offence under Article 45 of this Code upon application of an interested person shall be conducted by a state construction supervisory body, which finalises the inspection results in writing and forwards them to a construction permit issuing body to obtain an opinion on confirmation of compliance of a completed construction with urban planning conditions. A construction permit issuing body shall review the compliance of the construction completed with violation/failure to fulfil the permit conditions with the urban planning conditions, and shall issue an opinion on confirmation of compliance of the completed construction with urban planning conditions. A construction permit issuing body shall also be authorised to issue an opinion on confirmation of compliance of the completed construction with urban planning conditions in the event additional documents are submitted to the state construction supervisory body. Based on positive opinion, the state construction supervision body shall:

a) with respect to the offending entity which was held liable for a construction offence in the field of construction before entry of this article into force and which has not paid or has partially paid the amount of a fine/penalty by the time this paragraph becomes effective, declare invalid the decree on imposition of a fine and/or penalty, and shall issue an individual administrative-legal act on commissioning a constructed building or structure;

b) with respect to the offending entity which has committed a construction offence but no construction proceeding has been initiated against it, or a construction proceeding has been initiated but no decree has been issued, issue an individual administrative-legal act on commissioning of a constructed building or structure, or shall issue decree on termination of initiated construction proceeding and issue an individual administrative-legal act on commissioning of a constructed building or structure.

3. The first and the second paragraphs of this article shall apply to buildings or structures on which the activities under the first paragraph (except for subparagraph (h, j, k) of Article 88 of Ordinance #57 by the Government of Georgia on the Procedure for Issuance of Construction Permits and the Permit Conditions of 24 March 2009 have been completed by the time this article becomes effective. A state construction supervision body shall be authorised to impose, in writing, on a project owner the obligation to complete facing works of a building or structure, as provided in the agreed architectural design, using the facing material and colours as specified in the same design.

4. An offending entity, which was held liable for a construction offence under this Code (except for Article 45 of this Code) and which has not paid or has partially paid the amount of a fine/penalty by the time this article becomes effective, shall be exempt from the obligation to pay the fine/penalty and/or its outstanding amount if the offence it committed has been corrected by the time this article becomes effective or will be corrected within six months after entry of this article into force, under the procedures determined for correction of construction offences before entry of the same article into force.

5. An offending entity, on which was imposed to pay triple the amount of fine before entry of this article into force under Article 26(4) of this Code and has not paid or has partially paid it; also, an offending entity, which was subject to imposition to pay triple the amount of fine under the specified article but has not been imposed by the time this article becomes effective, shall be exempt from obligation to pay triple the amount of fine or its outstanding amount. Another six-month period to correct construction offences shall be set for the offending entities, which starts to run from the date of entry of this article into force.

6. If, in the case under the second paragraph of this article, the violation of a construction document has entailed changes to the established technical and economic indices, a project owner shall be obliged to additionally submit to state construction supervision body the re-calculated technical and economic indices and/or the floor(s) plans with appropriate technical and economic indices.

7. In the cases under paragraph 2 of this article, if a construction permit issuing body refuses to confirm compliance of a





completed construction with the urban planning conditions, when changes are made to the construction document and/or a new permit is issued under the procedure determined in Ordinance No 57 by the Government of Georgia on the Procedure for Issuance of Construction Permits and the Permit Conditions of 24 March 2009, the project owner shall be exempt from payment of the penalty (including already imposed) for a committed violation within the period set in the first paragraph of this article.

8. An application for exemption from the obligation to pay a fine/penalty or its outstanding amount for committing construction offences under paragraphs 1 and 4 of this article, and/or for commissioning of a building or structure must be submitted to an authorised body within six months after entry of this article into force.

9. This article shall not apply to:

- a) buildings or structures assigned to Grade 5;
- b) construction offences under Articles 46 and 47 of this Code;
- c) immovable monuments defined under the Law of Georgia on Cultural Heritage.

*Law of Georgia No 798 of 28 June 2013 – website, 15.7.2013*

## **Article 103<sup>2</sup> – Temporary procedure for releasing an offending entity from liability for performing construction works with violation**

1. An offending entity, which, from 1 January 2007 up to the time this article comes into effect, has performed construction works on a completely constructed multi-apartment residential house (reconstruction of the building, load-bearing constructions, or the exterior) or which, as of 20 April 2015, has performed construction works on a building that do not require a construction permit, and/or that do not change the load-bearing constructions of a building (making a dormer window without changing the apex height and pitch on the roof of a building and cutting out an opening/openings on the pitch) with violation of a written confirmation of the body issuing a construction permit, shall be released from payment of the penalty/surcharge amount and/or its unpaid part and from the liability defined by this Code if the construction offence the entity has committed has been rectified by the time this article comes into effect or has been confirmed by the body issuing the construction permit under the procedure established by the legislation of Georgia within one year after this article comes into effect.

2. In the case provided for in paragraph 1 of this article, an owner of a building (facility) or its part, or another authorised person shall apply to the body issuing a construction permit for releasing him/her from the liability defined by this Code and confirming the construction carried out with violation within one year after this article comes into effect.

3. After an offending entity submits the act issued for a respective construction offence, the expert opinion evidencing the solidity of load-bearing constructions of a building (facility) and the safety report of the construction works performed, the body issuing a construction permit shall consider the issue according to the simplified administrative procedure and shall confirm the construction carried out with violation under the procedure defined by Ordinance No 57 of 24 March 2009 of the Government of Georgia on the Procedure for Issuing Construction Permits and Permit Conditions taking into consideration the already performed construction works (reconstruction of the building, load-bearing constructions, or the exterior), which at the same time means acceptance of the facility into service.

4. The amount paid to the state budget as a penalty/surcharge or its part for committing a construction offence under this article shall not be returned to the offending entity.

5. This article shall not apply to:

- a) a building of the 5<sup>th</sup> grade;
- b) an immovable monument defined by the Law of Georgia on Cultural Heritage.

*Law of Georgia No 1117 of 28 June 2017 – website, 10.7.2017*

## **Article 104 – Final provisions**

1. The following shall be declared invalid upon entry of this Code into force:

- a) Law of Georgia on Protection of Consumer Rights of 20 March 1996 – (The Official Gazette of the Parliament of Georgia, No 007, 30.4.96, p. 7);
- b) Law of Georgia on Standardisation of 25 June 1999 – (The Legislative Herald of Georgia, No 30 (37), 1999, art. 162);
- c) Law of Georgia on Certification of Products and Services of 6 September 1996 – (The Official Gazette of the Parliament of Georgia, Nos 22-23, 17 October 1996, p. 25);



d) Law of Georgia on Provision of Traceability of Measurements of 6 September 1996 – (The Official Gazette of the Parliament of Georgia, Nos 22-23, 17 October 1996, p. 36);

e) Law of Georgia on Control of Technical Threat of 8 April 2010 – (The Legislative Herald of Georgia, No 20, 19.4.2010, p. 112).

2. All the technical regulations (norms, rules, instructions, requirements) that are not duly adopted shall be deemed void as of 1 January 2014.

3. This Code shall enter into force upon promulgation.

*Law of Georgia No 114 of 19 December 2012 – website, 27.12.2012*

**President of Georgia**

**M. Saakashvili**

**Tbilisi**

**8 May 2012**

**No 6157–I ბ**

