LAW OF GEORGIA

ON SPECIAL PENITENTIARY SERVICE

Chapter I - General Provisions

Article 1 - Scope of the Law

This law defines the organisation and procedural rules and powers of the Special Penitentiary Service (hereinafter - the Service) of the Ministry of Corrections and Legal Assistance of Georgia (hereinafter - the Ministry) within the scope of its powers of enforcement of detention and imprisonment, its rules of recruitment, the status of its employees and the system of their continuing professional education, and legal guarantees and guarantees for security and social protection.

Article 2 - Legal basis of the activities of the Service

1. The Constitution of Georgia, international treaties and agreements, the Imprisonment Code, this Law and other legislative and subordinate normative acts shall be the legal basis of the activities of the Service.

2. The Law of Georgia on Public Service shall apply to the activities of the officers and privates of the Service, unless otherwise provided for by law.

3. The Minister of Corrections and Legal Assistance of Georgia (hereinafter -the Minister) shall have the right to issue respective subordinate normative acts and individual legal acts for the purposes of this Law.

Article 3 - Legal status of the Service

1. The Service is a united system of militarised subdivisions, which functions in the system of the Ministry, and performs objectives imposed on it by legislation in order to exercise the rights of accused/convicted persons in penitentiary institutions, implement programmes for the re-socialisation of convicts, secure the legal regime, protect safety, ensure the removal/transfer and extradition of accused/convicted persons, maintain the personal files and registers of accused/convicted persons, process and analyse appropriate data about accused/convicted persons, manage crisis situations and implement special measures.

2. Officers, privates and other public servants work for the Service.

3. An officer and private (hereinafter - a Servant) of the Service are persons whose activities are aimed at ensuring direct enforcement and who ensure the performance of the objectives provided for in Article 5 of this Law (except as provided for in Article 5(j)). A Servant shall be granted a military or special state rank.

4. A public servant, who works for the social services of the penitentiary department of the Ministry, or at a penitentiary facility or directly carries out functions related to the provision of logistical, financial, organisational and legal support at a penitentiary facility, is not a Servant and this law shall not apply to him/her, except as provided for by paragraph 5 of this article.

5. The guarantees, provided for by Article 38, Article 39(1)(2),(6),(8),(10) and Article 40 of this Law, shall apply to public servants of the social services of the penitentiary department of the Ministry and of a penitentiary facility.

Article 4 - Main principles of the Service

1. The main principles of the Service are:

a) rule of law;

b) respect for and protection of human rights;

c) transparency;

d) political neutrality;

e) protection of the honour and dignity of a Servant;

f) proportionality;

g) protection of rules for discretionary powers.

2. According to the principles of the rule of law, the official activities of a Servant shall be directed only towards to the achievement of the objectives laid down by law and shall be implemented within the limits of powers and in the manner prescribed by the legislation of Georgia.

3. The forms and methods of the security measures implemented by a Servant during the performance of official duties shall not damage human life or

degrade human honour and dignity, shall not be discriminatory, and shall not violate freedom of expression and religion or other basic rights and freedoms.

4. The Ministry is obliged, in compliance with the observance of the security requirements, to provide appropriate and objective information to the public regarding the situation in a penitentiary facility as quickly as possible. At the same time, the Ministry shall protect state, commercial and professional secrets and shall ensure the protection of personal data.

5. A Servant may not be a member of any political union. During the performance of official duties, a Servant may not act according to his/her political views. Implementing security measures on accused/convicted persons or punishing them for their political views or party affiliations is prohibited for a Servant and shall entail liability as provided for by the legislation of Georgia.

6. The State shall protect the honour and dignity of a Servant, and shall provide him/her with decent working conditions, and legal and social guarantees. If necessary, the State shall ensure the security of a Servant and/or his/her family as provided for by the legislation of Georgia. It is prohibited to degrade the honour and dignity of a Servant and doing so shall entail liability as provided for by the legislation of Georgia.

7. According to the principle of proportionality, the force and means, provided for by the legislation of Georgia, used for the achievement of legitimate objectives, shall be necessary and proportional to the the protection of the interests which the security measures or actions are implemented to protect.

8. For the purposes of this Law, the observance of the rules for exercising discretionary powers shall include the right of a Servant, while he/she is performing official duties within the scope of the security measures determined by the respective Law, to make the most appropriate decision out of several decisions provided for by the legislation of Georgia, in order to achieve a legitimate objective in compliance with the principle of proportionality.

Chapter II - Objectives of the Service

Article 5 - Objectives of the Service

The objectives of the Service are:

a) to ensure the exercise of the rights of accused/convicted persons in penitentiary facilities;

b) to maintain a legal regime in penitentiary facilities;

c) to ensure the security of penitentiary facilities;

b) to maintain safety in the penitentiary facilities;

e) to ensure the material and technical safety of the Ministry's system;

f) to provide informational and analytical support for penitentiary facilities, and to process and analyze data;

g) to produce personal files and registers of accused/convicted persons;

h) to remove/transfer and extradite accused/convicted persons;

i) to manage crisis situations, and intervene and implement special measures;

j) to exercise the rights guaranteed by the legislation of Georgia for accused/convicted persons in penitentiary facilities and support their process of re-socialisation/rehabilitation and reintegration into society;

k) to fulfil the requirements of the legislation of Georgia (in particular, to develop and supervise the daily routine in a penitentiary facility), within the scope of its authority, in order to observe a legal regime in a penitentiary facility and to respond accordingly where the principles of such regime are violated;

l) to protect safety and detect, suppress and prevent crime or/and other offences in a penitentiary facility and within the surrounding area;

m) to protect material assets in the system of the Ministry (including the property of the Ministry), and to develop and implement plans for technical safety;

n) to manage crisis situations in order to protect safety and the established regime in a penitentiary facility in accordance with the procedures provided for by the legislation of Georgia;

o) to implement relevant measures in order to ensure the safety of accused/convicted persons in the event of natural disaster and other emergency situations, and to ensure that employees are enabled to implement such measures;

p) to develop and implement plans for the transportation of accused/convicted persons, as well as for ongoing and amplified security measures in a penitentiary facility;

q) to ensure the safety of the employees, and of employees of the civil service of the Ministry, and their family members, as established by the legislation of Georgia.

Chapter III - Organisation, Management and Control of the Service

Article 6 - Organisation of the Service

1. The Service comprises penitentiary facilities and structural subdivisions of the Ministry, a penitentiary department (hereinafter- the Department) and an analytical department.

2. The Department carries out unified management of penitentiary facilities, and ensures the exercise of the rights of accused/convicted persons in penitentiary facilities, and protects the legal regime, and ensures internal safety and exterior protection, and removes/transfers and extradites accused/convicted persons, and provides informational and analytical support for penitentiary facilities and implements other duties provided for by the legislation of Georgia.

3. The analytical department processes and analyses the data collected by the Department as established by the legislation of Georgia.

4. A penitentiary facility shall ensure immediate execution of detention and imprisonment. In the cases determined by the legislation of Georgia, a penitentiary facility shall be subordinate to the Department.

Article 7 - Management and control of the Service

1. The Service shall be subordinate to the Minister and to a duly authorised deputy minister.

2. The Minister may delegate certain powers related to the functioning of the Service (including awarding lower and middle ranks) to the director of the Department, except for powers related to the affairs of the personnel.

3. The General Inspectorate of the Ministry shall check the official activities of the Service and shall monitor the protection of the rights of accused/convicted persons.

Chapter IV - Procedures for Recruitment and Service

Article 8 Recruitment procedure and certification of employees

1. A citizen of Georgia who has attained the age of 18 and who has a command of the official language of Georgia and who, based on his/her personal and business character, education, physical training and health status, is capable of performing the imposed duties, may be recruited to the Service.

2. Candidates for the Service shall go through a special examination and, as a rule, shall be recruited based on special competition. Selected candidates are assigned with the status of trainee.

3. A trainee, within a given period of time, shall pass the mandatory course of professional training at the Penitentiary and Probation Training Centre (hereinafter the Training Centre), a legal entity under public law which operates under the Ministry.

4. After finishing the mandatory course of professional training, a trainee shall take the examination. Based on the results of the examination, he/she shall be awarded a certificate of a respective level, granted a special state rank and appointed to an appropriate position in the Service. The certificate is valid for three years.

5. The mandatory course of professional training shall comprise training in human rights and freedoms, together with other theoretical and practical subjects. For those employees who work with juvenile accused/convicted persons, the training shall include special courses in pedagogics and psychology.

6. The basis for the refusal to recruit a trainee shall be the fact that he/she did not receive a certificate because of the results of the examination taken after the mandatory course of professional training

7. In order to update the certificate, once every 3 years the employee shall take relevant courses of qualification and professional retraining and pass an examination. The certificate shall be updated based on the results of the examination. If the certificate of the employee is not updated based on the results of the examination, he/she shall be dismissed.

8. Procedures for the competition, and the forms and rules of the special mandatory professional training course, as well as procedures for certification and regular retraining, shall be established by the Minister.

9. The list of positions in the Service, where persons can be appointed without a special competition, and the procedure for appointments to positions without a competition, shall be established by the Minister.

Law of Georgia No 4580 of 27 November 2015 -website, 10.12.2015

Article 9 - Oath of employees

A new employee of the Service shall take an oath and confirm it with a signature: "Being aware of the great responsibility imposed on me before Georgia, I swear that I will faithfully serve the State, observe the constitution and laws of Georgia, respect universally recognised human rights and

freedoms and fulfil my duties in good faith."

Article 10 Restrictions on recruitment to the Service

1. The following persons shall not be recruited to work at the Service:

a) a person with a previous conviction for a deliberate crime;

b) a person who is subject to criminal prosecution;

c) a person who has been declared by a court decision as a beneficiary of support, unless otherwise determined by a court decision;

d) a person who is deprived by the court of the right to occupy a relevant position in the Service;

e) a person whose state of health, based on the conclusion of a medical examination, fails to meet the requirements determined for a position in the Service;

f) a person who, as a result of holding a position in the Service, will directly supervise or be supervised by a parent, spouse, sister, brother, child; or a sister, brother, or parent of a spouse;

g) an applicant for citizenship of a foreign country, except for the cases determined by law or the international agreements of Georgia;

h) a person who received a negative evaluation as a result of special examination.

2. An employee has no right to hold a position in any other public or private facility, and has no right to perform any paid work, except for scientific, pedagogical or/and creative work, while performing official duties for the Service. A public servant may concurrently hold another position only within the system of the same public institution.

Law of Georgia No 4580 of 27 November 2015 -website, 10.12.2015

Article 10^1 - Transfer of employee to another position

1. The employee may be transferred:

a) to a higher position: in the case of promotion, upon the recommendation of the manager and with the consent of the employee, provided the employee has held his/her current position for at least 6 months;

b) to an equivalent position:

b.a) on the basis of a personal report;

b.b) in order to meet the needs of the Service, with the consent of the employee;

c) to a lower position:

c.a) on the basis of a personal report;

c.b) in order to meet the needs of the Service, with the consent of the employee;

c.c) on the basis of the results of a qualification test;

c.d) in the case of disciplinary offence.

2. An employee may be transferred to another position taking into account the appropriate qualification requirements. The appointment of a person to a position of a different speciality shall be preceded with his/her appropriate official retraining.3. The employee may be transferred to another position by an order of a person authorised to appoint the employee to the respective position.

4. The person authorised to appoint an employee to a respective position may attach the employee to another structural subdivision of the Service, or structural unit or penitentiary facility, without transferring him/her to another position.

5. The person authorised to appoint an employee to a respective position, may determine the workplace for the employee.

6. In the cases determined by paragraphs 4 and 5 of this article, the consent of the employee is required.

Law of Georgia No 4580 of 27 November 2015 -website, 10.12.2015

Article 10^2 - Execution of duties of an employee who is absent from the Service

1. During emergency situations, when the absence of an employee poses a threat to the normal functioning of the Service, in order to replace the absent employee or occupy the vacant position, the person authorised to appoint an employee to a position is entitled to the following:
a) to distribute the duties of the absent employee among other employees without freeing them from their official duties;

b) to impose the duties of the absent employee on another employee and release that other employee from performing his/her official duties.

2. An employee may refuse the temporary performance of the duties as provided for by paragraph 1 of this article if the performance thereof is contraindicated for the state of his/her health or requires higher qualification or other professional training.

3. Based on paragraph 1 of this article, an employee may perform the duties of another employee who is absent from the Service in the same facility, for not more than 1 month in the calendar year. The duties of an absent employee may be performed for more than 1 month in the calendar year with the consent the acting employee.

4. An employee who performs the duties of an absent employee based on paragraph 1(a) of this article, in addition to his/her salary, shall be granted a sum in the amount of the remuneration for the position of the absent employee.

5. An employee who performs the duties of an absent employee based on paragraph 1(b) of this article shall be granted a sum in the amount of the remuneration for the position of the absent employee, if it exceeds his/her own remuneration. If the remuneration of the absent employee is less than the remuneration of the acting employee, the latter shall keep his/her own remuneration.

Law of Georgia No4580 of 27 November 2015 -website, 10.12.2015

Article 11 - Incentives for employees

1. The following incentives shall be determined for an employee for his/her exemplary performance of official duties, and long and faithful service, and for the performance of extremely difficult or significant assignments:

a) commendations;

b) a pecuniary bonus;

c) a valuable gift;

d) the award of a diploma of the Ministry;

e) the award of badges;

f) the award of a medallion of the Ministry;

g) the award of a medal of the Ministry;

h) early promotion to a higher special state rank;

i) early release from a disciplinary punishment;

j) the award of civilian or service guns.

2. Several forms of incentives may be applied to an employee at the same time.

3. For bravery and courage shown during the performance of duties, the employee may be nominated for the State award.

4. Procedures for the application of incentives to employees shall be determined by the Minister.

Article 12 - Misconduct of employees and disciplinary measures

1. The following shall be considered as misconduct by employees:

a) culpable non-performance or improper performance of official duties;

b) inflicting or culpably threatening to inflict damage to Ministry property ;

c) breach of ethical norms or undignified behaviour (culpable action) which is intended to discredit an employee or the system of the Ministry, irrespective of whether it is committed at or outside of work.

d) non-compliance with the legislation of Georgia and non-compliance with the legal instructions given by a directly senior or other senior officer;

e) violation of the ethical norms established for the employees.

2. The following disciplinary measures may be taken against employees for misconduct:

a) a rebuke;

b) a warning;

c) a reprimand;

d) deprivation of a badge;

e) demotion from a special state rank by one level;

f) withholding of wages for a maximum of 10 working days;

g) demotion to a lower a position;

h) dismissal/discharge from the Service.

3. It is prohibited to impose two or more disciplinary measures on an employee for the same misconduct.

4. The ethical code and disciplinary regulations for employees shall be approved by the Minister.

Chapter V - Special State Ranks

Article 13 - Highest special ranks for positions that attract special state ranks

The highest special ranks for positions that attract special state ranks shall be determined by the Minister.

Article 14 - Special State Ranks

1. An employee shall be awarded a special state rank in accordance with the procedure provided for by the legislation of Georgia;

2. Issues related to special state ranks are regulated by the Law of Georgia on Special State Ranks and by an order of the Minister.

Chapter VI - Rights and Obligations of Employees and Conditions of the Service

Article 15 - Rights and obligations of employees

1. During the performance of official duties, an employee represents the State.

2. An employee shall have the right to:

a) make relevant decisions, within his/her authority, in order to fulfil the duties imposed on him/her;

b) request and receive information required for the exercise of official powers in the prescribed manner;

c) be provided by organisational-technical equipment and conditions required for the fulfilment of official functions;

d) submit proposals regarding the improvement of his/her official activities to a directly senior officer and receive consultations necessary for work;

e) use physical force, special equipment and firearms, within his/her competence, in order to fulfil obligations in accordance with the procedures provided for by the legislation of Georgia;

f) exercise other powers granted by the legislation of Georgia and official instructions.

3. The employee is obliged to:

a) protect the rights of accused/convicted and other persons while performing official duties;

b) properly perform the duties imposed on him/her by official instructions;

c) follow the rules of professional ethics;

d) observe the legal acts related to his/her official activity, without special indication;

e) perform the legal orders, regulations and indications issued by the senior officer;

f) observe the requirements of the internal regulations;

g) protect State property and material assets;

f) exercise other powers granted by the legislation of Georgia and official instructions.

4. Other rights and obligations of an employee, in accordance with his/her official functions, shall be defined by official instructions which are approved by the Minister.

5. Procedures for the use of physical force, special equipment and firearms by an employee shall be defined by the legislation of Georgia and official instructions issued to the employee.

Article 16 - Working hours of employees

1. Employees shall work a 48-hour week, and irregular working hours, as duly determined by the Service.

2. Working on holidays and weekends shall be voluntary for employees, excluding employees working in shifts, in which case they shall be paid according to the procedure provided for by the legislation of Georgia.

3. Working hours for employees who work in shifts shall not exceed 24 hours, except in special cases determined by the director of a penitentiary facility.

4. Equal duration shifts shall be established for employees who work in shifts.

5. Employees may be switched to a special regime by the order of the Minister.

Article 17 - Vacation of employees

1. The following forms of vacation are established for employees:

a) annual paid vacation;

b) additional short-term vacation;

c) unpaid vacation;

d) study leave;

e) maternity and parental leave.

2. If necessary, the vacation of an employee may be terminated and an employee may be summoned back to work, except in the case specified in the paragraph 1(e) of this article.

3. An employee is entitled to a vacation by an order of the person who holds the power to appoint the employee to a respective position.

Article 18 - Annual paid vacation of employees

1. An employee is entitled to annual paid vacation for a period of 30 calendar days.

2. The period of an employee's temporary incapacity for work during his/her annual paid vacation shall not be included in the account of such vacation and shall be paid according to the procedure provided for by the legislation of Georgia.

3. Annual paid vacations shall be allocated to employees during the calendar year in accordance with the vacation schedule. Any unused paid vacation from the previous year shall be allocated to an employee in the first quarter of the following year. The duration of annual paid vacation for new employees shall be calculated in proportion to days served as follows: two and a half days of vacation for each full month served since the first day of employment.

Article 19 - Additional short-term vacation of employees

1. In the event of special circumstances, and within one year of an employee's used up paid vacation, the employee may be allocated an additional short-term vacation for up to a maximum of 10 days.

2. The additional short-term vacation shall be paid and shall not be included in the account of the annual paid vacation.

Article 20 - Unpaid vacation of employees

According to the procedure provided for by the legislation of Georgia, an employee may be entitled to unpaid vacation for not more than one year.

Article 21 - Study leave of employees

1. Once in two years, an employee may be entitled to paid study leave for professional development for not more than 3 months.

2. If an employee is entitled to study leave under the initiative of the Ministry, all expenses related to the study leave shall be compensated.

Article 22 - Maternity and parental leave of employees, and support and compensation

An employee shall be entitled to maternity and parental leave, and support and compensation as provided for by the legislation of Georgia.

Article 23 - Special clothes (uniforms) for employees

1. As a rule, an employee shall perform his/her official duties while wearing special clothes (uniforms).

2. The Minister shall approve samples of special clothes (uniforms), and their distinctive signs and emblems.

Article 24 - Professional day of the employee

The professional day of the employee is celebrated on 8 September of each year.

Article 25 – Strike actions

An employee may not go on or participate in strikes.

Chapter VII - Suspension and Termination of Official Relationship with Employees, and Dismissal/Discharge from the Service

Article 26 - Suspension of official relationship with employees

1. The suspension of the official relationship with an employee shall constitute the temporary discharge of the employee from official duties and the exemption of the Ministry from the obligation to provide a job for the employee.

2. During a period of suspension of the official relationship, an employee shall be entitled to keep the remuneration and bonuses and/or other compensation in the cases provided for by the Law (except in the cases specified in Article 28 of this Law) and in the prescribed manner.

Article 27 - Grounds for suspension of official relationship with employees

The grounds for the suspension of the official relationship with an employee are:

a) a written report (statement) of the employee, if the person who has the power of appointment in relation to the employee is not against the suspension;

b) vacation of the employee;

c) the employee's temporary incapacity for work;

d) the nomination of the employee as a candidate for presidential or representative body elections, unless otherwise determined by the Law;

e) removal of the employee from the Service in the cases provided for by Articles 28(1) and 29(1) of this Law and other legal grounds;

f) professional development and retraining of the employee;

g) other cases of temporary discharge of the employee in compliance with the law or on the basis of the law;

h) appointment of the employee to the Human Resources Department;

i) the case specified in the Article 30(1) of this Law.

Article 28 - Removal of an employee under the influence of alcohol from the Service

1. If a directly senior or other senior officer becomes aware that an employee is under the influence of alcohol, he/she will remove the employee from the Service during a given working day.

2. An employee who is removed from the Service as specified in paragraph 1 of this article may not receive a salary for the period of non-employment.

Article 29 - Removal of employees from the Service during disciplinary proceedings

1. The person entitled to impose disciplinary measures on an employee may remove the employee from the Service during disciplinary proceedings.

2. An employee who is removed from the Service as specified in paragraph 1 of this article may continue to receive remuneration and bonuses.

Article 30 - Temporary removal of an employee

1. An employee who is subject to criminal prosecution may be removed from his/her position, by the person entitled to appoint the employee to the respective position, until the final judgement of the criminal presecution is issued.

2. If the temporarily removed employee is acquitted, he/she shall be restored to the same position, and if that is not possible, to an equivalent position. The said employee shall be paid an amount of the salary that he/she did not receive during the period of removal from the Service.

Article 31 - Grounds for termination of an employee's official authority

The grounds for the termination of an employee's official authority are:

a) dismissal from the Service;

b) termination of the citizenship of Georgia;

c) being declared missing or dead by the procedure provided for by law;

d) expiration of the period of assignment to the Human Resources Department;

e) death.

Article 32 - Dismissal/discharge of an employee from the Service

1. An employee may be dismissed/discharged from the Service for the following reasons:

a) due to moving to another facility;

b) due to violation of the requirements established during recruitment;

c) due to a lack of the document required for the respective position;

d) due to the liquidation of the facility or its structural unit or to staff reduction;

e) due to the restoration of another employee, who was wrongfully dismissed, to the Service,;

f) on the basis of the results of a qualification test;

g) due to reaching an age limit;

h) due to misconduct;

i) due to long-term incapacity for work;

j) due to a judgement of conviction which has entered into legal force against him/her;

k) due to a state of health which does not allow him/her to properly perform official duties;

l) due to unsatisfactory professional behaviour;

m) due to a personal report;

n) due to the expiration of the period of assignment to the Human Resources Department;

o) due to the non-renewal of a certificate, where an updated certificate is required;

p) due to unsatisfactory results in professional training courses;

q) due to confirmation of the consumption of any of the special substances included in Lists I and II of drugs under special control in Georgia, except in the cases where these substances are consumed for treatment purposes;

r) due to the refusal to take a drug test, based on periodic and random selection principle, for the confirmation or otherwise of the consumption of substances under special control in Georgia;

s) due to incompatibility of offices;

t) due to other grounds directly provided for by the legislation of Georgia.

2. A dismissed/discharged employee shall return all material assets officially assigned to him/her.

Article 33 Assignment of an employee to the Human Resources Department

1. Based on an order issued by an authorised person, an employee who has been discharged from his/her position may be assigned to the Human Resources Department for no more than 4 months in the following circumstances:

a) during a lay off or reorganisation that results in staff reduction;

b) during the liquidation of a facility or its structural unit;

c) based on a personal report.

2. An employee placed in temporary assignment to the Human Resources Department may be assigned to temporarily perform his/her duties relating to his/her position.

3. An employee of the Service placed in temporary assignment to the Human Resources Department shall be deemed notified about possible dismissal from office from the moment of his/her placement in temporary assignment to the Human Resources Department.

Article 34 - Dismissal of employees having middle, higher and highest special ranks

An employee having middle, higher and highest special ranks may be dismissed from the Service:

a) to the reserve of the military forces of Georgia, if he/she has not attained the age limit established by Article 35 of the Law of Georgia on Military Duty and Military Service;

b) due to age - attaining the age limit of the Service while being in the reserve;

c) due to illness – by removing the employee from the military registration for being recognised as unfit for military service by the medical commission.

Article 35 - Age limit for employees

1. An employee having lower special rank may serve at the Service until the age of 60.

2. An employee having middle or higher special rank may serve at the Service until attaining the following ages:

a) Junior Lieutenant of Justice and Captain of Justice: up to the age of 55 (being in the reserve); up to age of 60 (with resignation);

b) Major of Justice and Colonel of Justice: up to the age of 60 (being in the reserve); up to the age of 65 (with resignation).

3. An employee having attained the age limit for being in the Service shall be subject to dismissal, except in the cases provided for by this Law.

4. Based on the interests of the Service, and taking into account medical opinion, the service term of an employee who has the rank of Colonel of Justice and has attained the age limit, may be prolonged for up to 5 years on the basis of his/her own request, by an order of the Minister.

5. A decision to prolong the service term shall not exclude the possibility of the dismissal of the employee based on the respective grounds provided for by this Law.

Chapter VIII - Reappointment of an Employee to the Service

Article 36 - Basis for reappointment of an employee to the Service

1. An employee, who has been wrongfully dismissed/discharged from the Service, shall be subject to reappointment

2. In the case specified in paragraph 1 of this article, the reappointment of the employee to the respective position at the Service shall be based on an employee monitoring report or a court judgement that has entered into legal force, as well as on the statement of an acquitted employee regarding reappointment to the Service.

Article 37 - Reappointment of an employee to the Service

1. A wrongfully dismissed/discharged employee shall be authorised to request the following: a declaration that the dismissal/discharge was wrongful; to change the grounds for the dismissal/discharge; to receive remuneration. For the period of wrongful dismissal, the employee shall receive salary in the amount of no more than 3 months remuneration.

2. If the order, regulation or decision regarding the dismissal/discharge or transfer of the employee from the Service is declared as illegal by the court, the employee shall become subject to immediate reappointment, except where he/she refuses to be reappointed.

3. The annulment of the order, regulation or decision regarding dismissal/discharge or transfer of the employee from the Service by the court, shall not lead to the immediate reappointment of the employee, if, according to the decision of the court, the facility is obliged to issue a new order, regulation or decision after an examination and evaluation of the circumstances relating to the dismissal/discharge or transfer of the employee from the Service. The employee shall receive requested lost salary, in accordance with paragraph 1 of this article, only if he/she is reappointed to the Service. Otherwise, lost salary shall not be compensated.

4. According to this Law, a discharged employee shall become subject to reappointment based on a personal statement if the court delivers a judgement of acquittal.

5. The employee shall be reappointed to the same position, or to an equivalent position on the basis of his/her consent.

Chapter IX - Legal, Safety and Social Protection Guarantees for Employees

Article 38 - Legal and safety protection guarantees for employees

1. When performing official duties the employee represents the state authority and shall be protected by the State. It is obligatory for everyone to comply with an employee in so far as his/her requirements are appropriate to his/her authority and are established under the legislation of Georgia.

2. Interference in the official activities of an employee shall be impermissible.

3. Impeding, violating honour and dignity, resisting, threatening, demonstrating violence and infringing upon the life, health or property of an employee when performing his/her official duties shall result in liabilities as provided for by the legislation of Georgia.

4. An employee who is aware or may be aware of a clearly unlawful order or instruction shall refuse to carry it out and shall notify the General Inspectorate of the Ministry and the investigation department.

5. An employee shall have the right to apply directly to a court to defend his/her rights and freedoms.

6. If an employee, or his/her family member, is under threat because of his/her official duties, the State shall ensure the safety of the employee and/or his/her family member, as determined by an order of the Minister.

Article 39 - Social protection of employees

1. The State shall ensure the social protection of employees.

2. An employee is entitled to the mandatory health and life insurance of the State, and the spouse and minor children of the employee shall be insured from the state budget of Georgia.

3. During the period of temporary assignment to the Human Resources Department, an employee of the Service shall retain his/her salary for his/her last position for two months.

4. An employee who uses a state or personal vehicle for carrying out official duties shall have fuel for the vehicle provided by the State.

5. For the performance of official duties, an employee shall receive:

a) salary, which consists of remuneration for the position occupied and a bonus for a special rank awarded;

b) a monthly bonus in addition to salary for served years (including years served under military or/and special state rank, including service at another state facility of Georgia, except mandatory military service);

c) other bonuses and compensation provided for by the legislation of Georgia.

6. Any damage incurred by an employee of the Service during the performance of his/her official duties shall be fully compensated from the state budget of Georgia.

7. If an employee dies while performing his/her official duties, a lump sum allowance of not more than GEL 15 000 (fifteen thousand) shall be provided to his/her family or heir. The burial expenses of the employee shall be covered by the State.

8. In the case of injury to the health of an employee when carrying out official duties, based on an administrative act of the Minister, the employee shall be granted a lump sum allowance in the following amounts:

a) in the case of severe injury to health: GEL 7 000 (seven thousand);

b) in the case of less severe injury to health: GEL 4 000 (four thousand);

c) in the case of light injury to health: GEL 2 000 (two thousand).

9. The amount of monthly bonus for an employee based on his/her served years, and the amount of bonus for special state rank, as well as procedures for the granting and issuance of other bonuses, shall be established by the Minister.

10. The Minister shall establish the amount of and procedure for the issuance of bonuses for employees of a department and of the social services of a penitentiary facility.

Article 40 - State compensation and additional guarantees of social protection and privileges

1. State compensation shall be granted to an employee and his/her family member in the amount and under the procedures provided for by the Law of Georgia on State Compensation and State Academic Scholarships.

2. In accordance with the legislation of Georgia, and within the limits of state budget allocations, and based on relevant justifications, additional guarantees and privileges of social protection provided for by this Law may be granted to an employee by an order of the Minister,

Chapter X - Transitional and Final Provisions

Article 41 - Measures related to the entry into force of this Law

1. Before 1 September 2015, the Minister shall issue the subordinate normative acts provided for by this Law.

2. Before 1 September 2015, the Training Centre shall develop programmes required for certification and submit them to the Minister, and shall put such programmes into effect within the time limits set by the Minister.

3. A person who is an employee of the system of the agencies of enforcement of detention and imprisonment as of 1 June 2015, and who works in the Special-Purpose Office, the Head Office of the Security, the Special Registration Office or in the Head Office of the Exterior Guard and Escort Team of the Corrections Department, a state subordinate agency operating within the Ministry of Corrections and Legal Assistance of Georgia, may, at the time of a reorganisation/liquidation, and with his/her consent, be transferred, without competition, to another position, under an order of the person authorised to appoint the employee to a position, in accordance with the terms provided for by Article 42(1) of this Law. The said employee shall retain military or special state rank. Issues related to awarding him/her a further special state rank are regulated by the Law of Georgia on Special State Ranks.

4. A person who is an employee of the system of the agencies of enforcement of detention and imprisonment as of 1 June 2015, and who works in the Safety Department, the Legal Regime Department, the Special Registration Department or the Duty Office of a facility of enforcement of detention and imprisonment, may, at the time of a reorganisation/liquidation, and with his/her consent, be transferred, without competition, to another position, under an order of the person authorised to appoint the employee to a position, in accordance with the terms provided for by the Article 42(1) of this Law. The said employee shall retain military or special state rank. Issues related to awarding him/her a further special state rank are regulated by the Law of Georgia on Special State Ranks and the Law of Georgia on Military Duty and Military Service.

5. If an employee refuses transfer to the proposed position, the person authorised to appoint the employee to a position may discharge the employee from the Service because of liquidation. An employee who is discharged from the Service because of liquidation shall receive compensation as determined by Article 109 of the Law of Georgia on Public Service.

6. The employees defined in paragraphs 3 and 4 of this article (except the officials defined in Article 8(9) of this Law), after being appointed, shall continue to work until receiving the certificate provided for by Article 8 of this Law, but no later than 1 January 2017. Refusal to take certification or not to receive the certificate shall be the basis for the termination of the official duties of an employee.

7. The Ministry shall ensure the implementation of the respective measures related to the enforcement of this Law.

Article 42 - Issues related to the certification and retraining of an employee

1. Those employees of the system of the agencies of enforcement of detention and imprisonment who continue to work in the Service after the liquidation of the Corrections Department, a state subordinate agency operating within the system of the Ministry, are obliged to take certification at the Training Centre, before 1 April 2017, if, according to Article 8 of this Law, the certificate is required for their position.

2. The Ministry shall create appropriate conditions in order to prepare the employees referred to in paragraph 1 of this article for the certification within the set time limit.

3. The Minister shall develop and confirm the schedule for the retraining and certification of employees.

Law of Georgia No 188 of 22 December 2016 -website, 29.12.2016

Article 43 - Temporary procedure for appointment of an employee to a position

1. Before 1 October 2015, in special cases, where the absence of an employee poses a threat to the department and/or the fulfilment of the objectives imposed on a penitentiary facility, the Minister and the director of the Department shall appoint a respective employee to the position without competition as provided for by the legislation of Georgia.

2. The employees defined in paragraph 1 of this article (except the officials defined in Article 8(9) of this Law), after being appointed, shall continue to

work until receiving the certificate provided for by Article 8 of this Law, but no later than 1 January 2017. Refusal to take certification or not to receive the certificate shall be the basis for the termination of the official duties of an employee.

3. Before 1 May 2016, the Minister and the director of the Department are authorised to appoint a person to a position without competition for no longer than 6 months of probationary period.
4. An employee appointed to a position for probationary period based on paragraph 3 of this article (except the officials defined in Article 8(9) of this Law), shall immediately take the primary training course in the Training Centre. After successfully taking this training course during the probationary period he/she also shall take the mandatory special professional training course as provided for by Article 8(3) of this Law.

5. An employee appointed to a position for a probationary period based on paragraph 3 of this article may be discharged from the position in the following cases:

a) if he/she refuses to take the primary training course;

b) if he/she receives unsatisfactory results after taking the primary training course;

c) if he/she refuses to take the mandatory special professional training course;

d) if he/she does not receive a certificate after passing the examinations of the mandatory special professional training course.

Law of Georgia No 4580 of 27 November 2015 -website, 10.12.2015

Article 44 - Entry into force

1. This Law, except Article 8, shall enter into force from 1 July 2015.

2. Article 8 of this Law shall enter into force from 1 September 2015.

President of Georgia **Giorgi Margvelashvili**

Kutaisi,

1 May 2015

No 3524-IIს