

LAW OF GEORGIA
ON COMPENSATION FOR DAMAGE CAUSED BY HAZARDOUS SUBSTANCES

Chapter I - General Provisions

Article 1 - Purpose of the Law

The purpose of this Law is to ensure compensation for damage to human life and health, environment, sites of historic and cultural significance, and to property and economic interests as a result of environmental impacts caused by hazardous substances, irrespective of the fault of a responsible person.

Article 2 - Definition of terms used in the Law

For the purpose of this Law, the terms used herein shall have the following meanings:

- a) hazardous substance – an element, complex substance or a compound, including oil, natural gas, and other gases and substances emitted from such substances (except for natural, untreated radioactive substances);
- b) compensation for damage – indemnification for damage ('the damage') caused by hazardous substances in accordance with the procedure established by the legislation of Georgia;
- c) oil – liquid hydrocarbon or substance derived therefrom, including crude and lubricate oil, petrol, diesel fuel, kerosene, fuel oil, residual oil, other oil products or by-products thereof;
- d) pollution – storage, release, pouring, leakage, pumping, spillage, discharging, emptying, and emitting of hazardous substances into the environment, including abandoning and emptying containers, tanks, and closed receptacles containing hazardous substances; except for exhausts from vehicles, trains, aircrafts and ship engines, and except for pollution that harms only those who are in the workplace, if they can raise a claim against their immediate manager;
- e) initial response – taking all necessary measures in order to:
 - e.a) stop the pollution by hazardous substances and the further spread of pollutants in the form of hazardous substances;
 - e.b.) ensure the notification and information of state authorities with regard to the existing or potential threat to human health and environment resulting from the pollution of the environment by hazardous substances, as well as appropriately respond to and cooperate with such authorities in the case of pollution; evacuate persons who have been injured or whose health has been endangered as a result of the pollution of the environment by hazardous substances, as well as provide such persons with temporary accommodation, basic necessities and first medical aid;
 - e.c) ensure the protection of human health and environment against possible damage caused by hazardous substances;
- f) responsible person – a person, who, in the course of production, treatment, storage, transportation, use and placement of hazardous substances (separately or together with other substances), pollutes the environment, also a person who owns or controls hazardous substances; and a person who produces, treats, stores, transports, uses and places hazardous substances on behalf of another person.
- g) crude oil – a mixture of untreated liquid carbohydrates, naturally formed in subsoil, including crude oil that is treated in such manner as to ensure its suitability for transportation, as well as crude oil, from and to which distillation fractions are separated or added.

Law of Georgia No 1675 of 7 December 2017 – website, 14.12.2017

Article 3 - Scope of the Law

1. The requirements of this Law shall not apply to hazardous substances intended for personal use that are utilised in accordance with the procedure prescribed by the legislation of Georgia.
2. The compensation for damage to human health and environment as a result of pollution by hazardous substances shall be carried out in accordance with the procedure provided for by the legislation of Georgia.
3. Legal matters related to the compensation for damage caused by pollution of soil and water resulting from the use of minerals in high mountainous regions, shall be established by the Law of Georgia on Soil Protection and the legislation of Georgia.

Law of Georgia No 1750 of 19 November 2002 - LHG I, No 31.10.12. 2002, Art. 137

Chapter II - Obligations with Regard to Compensation for Damage

Article 4 - Compensation for damage by a responsible person

1. Unless otherwise provided for by this Law, a responsible person is obliged to pay compensation for damage caused by him/her to another person or a territory:
 - a) as a result of pollution by hazardous substances in the course of production, treatment, storage, transportation and use of hazardous substances or in other cases;
 - b) as a result of pollution caused intentionally, by negligence or by third party's actions.
2. A responsible person is also obliged to pay:
 - a) compensation in the case of the trauma or death of a person;
 - b) compensation required for initial response measures, including compensation for actions that have been implemented by the State, a public enterprise, or any other person in order to limit the spread of hazardous substances, prevent pollution, and reinstate and restore the polluted environment;



- c) compensation for economic damage to the revenue of a proprietor, a tenant of property, or a user, including the damage caused to water resources, soil, buildings and farm crops;
 - d) compensation for damage caused to the State resulting from the pollution of the natural and cultural environment by hazardous substances.
3. Compensation for damage specified by paragraph (2) of this article shall be carried out as provided for by the Civil Code of Georgia.

Article 5 – Making joint compensation for damage by responsible persons

1. If pollution by hazardous substances results from two or more sources, the persons responsible for each source of pollution shall be jointly and unconditionally liable to make compensation for such damage. If any responsible person proves that hazardous substances released from the source owned or controlled by him/her caused partial damage, he/she shall compensate only for that portion of damage.
2. If the source of pollution belongs to two or more persons, or such persons control the source jointly, the responsible persons shall be jointly and unconditionally liable to make compensation for the damage if such damage occurs as a result of the release of hazardous substances from such sources.
3. Responsible persons, who own and control hazardous substances jointly, shall be jointly and unconditionally liable to make compensation for the damage if such damage occurs as a result of the release of hazardous substances from such sources.
4. Responsible persons shall have the right to raise claims against each-other or any other person with regard to the liability specified in paragraphs (2) and (3) of this article, in accordance with the procedures prescribed by the legislation of Georgia.

Article 6 - Release from the obligation to make compensation for damage

1. A responsible person shall be released from the obligation to make compensation for damage, if such damage is caused:
 - a) by a state of emergency or martial war;
 - b) by a special request, verbal or written, of an appropriate public authority or an official, or by taking compulsory measures at the request of a public authority prior to the pollution by hazardous substances. In such case, the public authority making such request is obliged to pay the compensation for such damage as provided for by the legislation of Georgia.
 - c) if the volume of hazardous substances does not exceed the permissible limit of pollution by hazardous substances established by an appropriate permit, licence or other document issued in accordance with the legislation of Georgia specifically for the place of pollution, the elimination of the results of pollution and compensation for damage shall be carried out under the procedures provided for by the legislation of Georgia.
2. A responsible person (except for the manager, representative or an employee of the responsible person) may, fully or partially, be released from the obligation to make compensation for damage caused as a result of the actions of a third person, or as a result of inevitable natural phenomena, and where:
 - a) such responsible person, considering the available information and other relevant circumstances, could not have foreseen such actions or phenomena;
 - b) such actions or phenomena could be foreseen, and the responsible person had taken all possible measures in advance to prevent the pollution caused by such actions or phenomena, or to mitigate the consequences of such pollution, and has also used the best available technologies in compliance with international standards;
 - c) the responsible person discovered the fact of pollution after a certain period from the occurrence of such pollution and took initial response measures.
3. A responsible person may not be released from the obligation to make compensation for damage under this article if such damage fully or partially results from non-compliance by the responsible person with the legislation of Georgia on health safety, and on the safe production, treatment, storage, transportation, placement and use of hazardous substances.
4. A responsible person shall not be released from the obligation to compensate the expenses of initial response and further recovery measures, nor from the obligation to compensate expenses incurred by any person to reduce and prevent the spread of hazardous substances, and to reinstate and restore the polluted environment.
5. A responsible person shall be released from the obligation to make compensation for damage caused to any other person or other person's property, if such damage wholly or partially results from the negligent or intentional actions of such person which caused the pollution by hazardous substances or the damage to the property of the responsible person.
6. A responsible person shall be released from the obligation to compensate for damage to any other person or other person's property, if such person was aware of the existence of the potential risk of pollution and voluntarily exposed himself/herself or the property to such risk.

Article 7 - Other obligations of a responsible person

The payment of compensation or the determination of the obligation to pay compensation in accordance with this Law does not release a responsible person from any other obligations established by the legislation of Georgia.

Article 8 - Compulsory insurance against possible risk of pollution resulting from activities related to hazardous substances

A responsible person shall be obliged to insure against the possible risk of pollution, which may result from his/her activities related to hazardous substances or, prior to the commencement of such activities, he/she shall submit a solvency certificate where the minimum insurance amount shall be specified.

Chapter III - Transitional Provisions



Article 9 - Normative acts to be adopted in relation to the entry into force of this Law

1. The following orders of the Minister of Environment and Natural Resources Protection of Georgia shall be issued within a year from the entry into force of this Law, namely:

- a) on the Method for the Estimation of Damage to the State Resulting from Pollution by Hazardous Substances;
- b) on the Method for the Estimation of Damage to the State Resulting from Radiation Impact on the Environment;
- c) on the Method for the Estimation of Damage to the State Resulting from Pollution of Flora by Hazardous Substances;
- d) on the Method for the Estimation of Damage to the State Resulting from Pollution of Fauna by Hazardous Substances;
- e) on the Method for the Estimation of Damage to the State Resulting from Pollution of the Ecosystem and Landscape by Hazardous Substances;

2. The method for the estimation of damage to the State resulting from pollution of water and ambient air by hazardous substances shall be laid down by the subordinate normative acts provided for by paragraph (1) (z⁸, z⁹) of the Law of Georgia on Water, and Article 60(2)(z⁷) of the Law of Georgia on Ambient Air Protection.

3. The estimation of damage to the State resulting from the impact of hazardous substances on the endangered wild flora or fauna that are included in the Red List of Georgia shall be carried out in accordance with the Law of Georgia on the Red Book and the Red List of Georgia.

Law of Georgia No 2377 of 6 June 2003 – LHG I, No 19, 1. 7. 2003, Art. 131

Chapter IV – Final Provision

Article 10 - Entry into force of the Law

This Law shall enter into force upon its promulgation.

President of Georgia

Tbilisi

23 July 1999

No 2350 – 66

Eduard Shevardnadze

