

LABOUR INSPECTION WILL COVER ALL TYPES OF WORK ACTIVITIES



Parliament of Georgia is holding the first hearing of [amendments to the Law of Georgia on Labour Safety](#).

According to the legislative initiative, starting from 1 September 2019, the Law of Georgia on Labour Safety will apply not only to the dangerous, heavy and hazardous labour and labour in dangerous conditions but to all sectors of economic activity.¹

DRAFT LAW, INITIATOR

Legislative initiative: [Parliament of Georgia Rules of Procedure](#)

Initiators: Georgian Parliament Members: Sopio Kiladze, Dimitri Tskitishvili, Akaki Zoidze, Tamar Khulordava

Authors: Dimitri Tskitishvili, Zakaria Shvelidze

ESSENCE OF THE DRAFT LAW

The goal of the draft law is to define the main requirements of labour safety and general principles of preventive measures at workplace.

The legislative initiative envisages the creation and operation of a system of effective and working mechanisms of enforcement and inspection.

The mandate of the labour inspectorate is extended and, according to the draft law, the supervisory body is authorized to check any work space covered by the inspectorate mandate without prior warning at any time of day or night, to inspect, examine and check the work space.

According to the draft law:

- A unified standard of operation with regard to labour safety will be defined for enterprises in all sectors of economic activities in labour market;
- Legal regulations necessary for the creation and operation of effective and working mechanisms of enforcement and inspection will be established;
- The scope of rights, obligations and responsibilities of employers, employees, including persons directly or indirectly responsible for labour safety and of the labour inspectorate, will be specified.

CURRENT REGULATIONS AND SUGGESTED AMENDMENTS

1. SCOPE OF THE LAW

CURRENT VERSION

The Law on Labour Safety applies only to the work involving increased levels of danger, heavy and hazardous labour and labour in dangerous conditions.

PROPOSED AMENDMENTS

The law applies to all sectors of economic activity, including the labour relations regulated by the Organic Law of Georgia Labour Code of Georgia and the Law of Georgia on Civil Service.²

2. INSPECTORATE'S SCOPE OF AUTHORITY

CURRENT VERSION

According to the Law of Georgia on Control of Entrepreneurial Activities, a supervisory agency is authorized to control the entrepreneurial activities (including entering the enterprise, requesting documents, suspending the operation of the enterprise, sealing the entrepreneur's property, examining the enterprise, checking the quality of the goods produced by the entrepreneur) only on the basis of an order issued by a judge.

PROPOSED AMENDMENTS

The labour inspectorate does not require advance court permission and is authorized, without prior notice, to check any work space subject to inspection, at any time of day or night, inspect, examine and check the work space, which is necessary to ensure effective implementation and application of labour safety norms.³

3. COMPENSATION FOR INJURIES

CURRENT VERSION

An employee has the right to receive compensation for injuries received at workplace in accordance with the procedures established by the law.

PROPOSED AMENDMENTS

The proposed amendment specifies that an employee has the right to receive compensation for injuries received at workplace, **including injuries resulting from occupational disease.**

4. OBSTRUCTING THE WORK OF THE SUPERVISORY BODY

CURRENT VERSION

Obstructing the work of the supervisory body can result in a warning or a fine in the amount up to GEL 200 in the event of a failure to fulfil an instruction contained in the warning.

PROPOSED AMENDMENTS

Obstructing the work of the supervisory body will result in a fine in the amount of up to GEL 4,000 for an individual and up to GEL 14,000 for a person registered as a VAT taxpayer. The amount of the fine is linked to the income received during previous calendar year and to the total amount of operations taxable under VAT.

5. LABOUR SAFETY SPECIALIST

CURRENT VERSION

- The obligation to appoint a labour safety specialist currently applies only to the work involving increased levels of danger, heavy and hazardous labour and labour in dangerous conditions;
- The employer is obliged to appoint one or more employees to the position of a labour safety specialist or to create for this purpose a labour safety service which, in order to prevent violations of labour safety norms, will ensure the introduction and management of labour safety measures;
- Upon agreement with employees, a labour safety specialist and employees' representative can be the same person.

PROPOSED AMENDMENTS

- The obligation to appoint a labour safety specialist will apply to all spheres;
- The employer is obliged to appoint one or more employees to the position of a labour safety specialist or create for this purpose a labour safety service which, in order to prevent violations of labour safety norms, will ensure the introduction and management of labour safety measures;
- Upon agreement with employees, a labour safety specialist and employees' representative can be the same person.⁴

ASSESSMENT / RECOMMENDATIONS

First and foremost, we welcome the lawmakers' will to regulate the issues of labour safety at the level of an organic law. It is important to have an efficient labour inspectorate which, provided with appropriate human and material resources, will be able to exercise meaningful control considering the prevailing challenges, which is only possible to achieve if correct impact and risk assessment is performed prior to putting the law into effect.

It is Transparency International Georgia's opinion that, in order to ensure effective implementation of the law, it is expedient:

- For **Parliament to implement the Regulatory Impact Analysis (RIA)** in order to determine the **effectiveness of the law, the compliance of the enactment of the goals of the draft law with the proposed regulations, state resources [required] for an effective enforcement of the draft law, the impact that the law will have on the business sector and, considering all of the above, the optimal date for putting the law into effect;**
- To **determine priority sectors of economic activity to ensure effective enforcement of the law.** Initially, the law should be enforced in the corresponding priority sectors in order to prevent the possible flaws that are due to the novelty of the initiative from affecting all sectors of economic activity so that the implementation of the law does not turn into a heavy burden for small business. They should be given reasonable time to bring their activities into compliance with the law.
- **For the role of social partnership to increase** and for the issues such as determining the priority sectors for the implementation of the law, defining the mandatory criteria for assuming the post of a labour safety inspector and staffing the inspectorate to be decided on only in coordination with a trilateral social partnership commission.
- It is expedient to **minimize corruption risks in the draft law.** To this end, it is important to reduce the level of discretion of the labour inspector with regard to sanctions, to clearly define and separate the content of violations, and to ensure that the minimum and maximum amounts of fines for each violation are not inappropriate.
- To ensure that the **standards of labour safety which are to be defined** by an administrative-legal act of the government or a ministry **are developed based on international best standards, in a transparent manner and with the maximum feasible involvement of experts.** Naturally, the best option would be to determine these details in the law, as a result of corresponding broad consultations.
- According to the draft law, each enterprise should have a labour safety specialist who will participate in a certified programme approved by the state. We believe that, **prior to the enforcement of the law, the optimal time that the enterprises would need to prepare a certified specialist must be determined and the timeframe for putting the law into effect for all areas of economic activity should be determined based on this.** In addition, it would be fair for the state to cover the costs of specialists' certification at the initial stage.
- According to the draft law, the employer is obliged to provide the employee with training and instructions. To ensure that training is not a mere formality and does not become a heavy and useless burden for business, **it is expedient to make training obligatory only in the fields that are directly related to the work of the employee.**
- According to the draft law, the employer is obliged to inform the law enforcement bodies about all, including minor, accidents. **The obligation to inform the law enforcement bodies should exist only when an accident involves signs of a crime,** in order to prevent unreasonable use of law enforcement bodies' resources.

Unfortunately, there is no political will in the state to effectively use the labour safety mechanisms which are already stipulated by our legislation. Clearly, it is possible to better protect the life and health of employees even with the current regulations. In addition, the instances of violating labour safety are not being investigated in a timely and efficient manner.⁵ For this reason, adopting additional legislation and norms will become an effective preventive mechanism of labour safety only in the event of calculating the impact and the risks that could stem from implementing this law. The standards and mechanisms of their control should be defined clearly, otherwise, the result will be additional regulations and a fertile soil for corruption.

1 Parliament of Georgia, at the plenary session on 7 March 2018, passed the Law on Labour Safety which only applies to heavy and hazardous labour and labour in dangerous conditions.

2 This law does not apply to: Ministry of Internal Affairs of Georgia; Ministry of Defence of Georgia; Special State Protection Service; Intelligence Service of Georgia; special state agencies directly subordinated to the Prime Minister of Georgia - Emergency Management Service, Georgian State Security Service.

3 The rules and conditions for checking the work space are defined by the order of the minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia.

4 The employer who has 20 or fewer employees can personally perform the duties of a labour safety specialist provided he or she has completed an accredited programme envisaged by the law; the size, rules of implementation and conditions of such programme is defined by the administrative-legal act issued by the minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia.

5 See our analysis at: <https://www.transparency.ge/ge/blog/shromis-usaprtxoebis-shesaxe-kanonproektisa-da-arsebuli-praktikis-mimoxilva>