



NATIONAL ENVIRONMENTAL AGENCY

LAW OF GEORGIA ON ENVIRONMENTAL LIABILITY



The adoption of the law: March 2, 2021

Law enter into force on 1 July 2022

The law was adopted in accordance with the Association Agreement

Basis: *Directive 2004/35/EC of the European Parliament and of the Council of April 21, 2004 on "Environmental Liability"*

Purpose of the Law

The purpose of this Law is the legal regulation of issues related to environmental damage based on the 'polluter pays' principle.

Scope of the Law

- significant environmental damage
- Remediate significant environmental damage
- "Monetary compensation" for not significant environmental damage

The Law, shall not apply to:

Force majeure situations; Armed conflicts; Actions related to national security, national defence and/or international security;

cases caused by diffuse emission

damage inflicted on a private owner

environmental damage and significant environmental damage caused by actions carried out by a natural person (*except for an individual entrepreneur provided for by the Law of Georgia on Entrepreneurs*);

environmental damage and significant environmental damage caused by vessels sailing in the Black Sea or by transit shipment of cargo through the territory of Georgia;

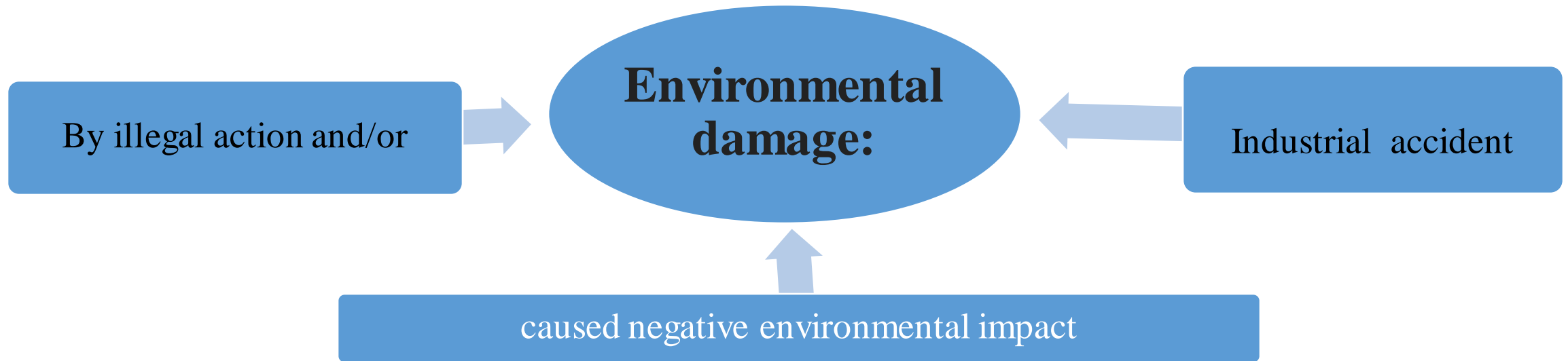
damage and significant damage to minerals;

environmental damage and significant environmental damage caused by nuclear and radiation activities.

on the damage caused to the environment before the implementation of this law

The state management, regulation and control provided for by this Law, which are related to activities regulated by the Law of Georgia on Oil and Gas, shall be carried out in accordance with the principles of the same Law by the Legal Entity under Public Law called the State Agency of Oil and Gas, operating within the system of the Ministry of Economy and Sustainable Development of Georgia.

the procedure and amount of compensation for environmental damage/significant environmental damage caused by damaging, destroying or uprooting, or deliberately damaging and destroying, green plantings regulated by the Law of Georgia on Special Protection of Green Plantings and State Forest within the Boundaries of Tbilisi and Its Adjacent Territories.



Significant environmental damage

Damage, in the event of which the level of environmental damage meets the criteria set out in Annex No 1

An adverse effect on the environment, which was predetermined and for which an authorised body has issued a relevant authorising document or consent provided for by the legislation of Georgia, shall not be considered as damage;

ENVIRONMENTAL LIABILITY:

- Strict environmental liability
- based on Fault

Strict environmental liability – liability that is imposed on an operator carrying out activities, notwithstanding whether the operator has been at fault or not, if the significant damage provided for in Annex No 1 (Criteria for Determining Significant Damage) to this Law is caused by carrying out the activities provided for in Annex No 2 (Particularly Hazardous Activities for the Environment) to this Law or by the failure to comply with the obligations proceeding from such activities.

In this case, proving the fault of the operator specified in this sub-paragraph is not necessary for imposing strict environmental liability on him/her/it;

Types of environmental liability:

- develop a plan of remedial measures/Implementation (significant environmental damage)
- Monetary compensation" for environmental damage

Competent authorities

The state sub - Agency Department of environmental supervision

- ❖ Identification of the damage (*on a case-by-case basis, assess whether the environment has suffered damage or significant damage*)
- ❖ Imposition of environmental liability for the person causing the damage
- ❖ Supervision/Control

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- ❖ Determination of remedial measures for significant damage to the environment, Discussion and agreement of remedial plans
- ❖ Ensuring stakeholder engagement
- ❖ Agreement on the amount/means of financial security for the risk of environmental damage

LEPL “State Agency of Oil and Gas”

- ❖ In connection with activities regulated by the "Oil and Gas" Law

Other participants:

An operator/Person responsible for environmental damage shall

take all necessary measures to prevent/mitigate significant damage;

immediately notify the Department

Determining remedial measures

Agreement with the agency (Remedial plan)

interested party

an interested party provided for by the General Administrative Code of Georgia (including an environmental non-governmental organisation)

- *Providing feedback on the draft plan*
- *Participating in the determination of remedial measures*

Deadlines of administrative activities

120 days - (from detection of environmental damage) damage assessment (significant damage/insignificant damage), determination of liability mode (fault-based/strict), imposition of environmental liability - Department of Environmental Supervision

180 days - (from the imposition of environmental responsibility) preparation of a remedial action plan and submission to the National Environment Agency for agreement - the person responsible for the damage

120 days - (from the submission of the remedial measures plan) agreement on the plan - National Environmental Agency

Determination of remedial measures

- 1 • restoration of the environment to its original condition (existing before damage)
- 2 • restoration of the environment to the state close to its original condition (existing before damage)
- 3 • implementation of compensatory/adequate remedial measures at a site adjacent to the damaged area or at an alternative site

Determining compensatory/adequate remedial measures

- 1 • If it's impossible to restore the damaged natural resource and/or service to its original state only by implementing the primary measure
- 2 • If the primary measure cannot be implemented within a reasonable period of time
- 3 • If it's requires disproportionate costs

Financial security for the risks of environmental damage

(shall enter into force on 1 July 2023)

An operator carrying out the activities provided for in Annex No 2 (Particularly Hazardous Activities for the Environment) to this Law shall provide appropriate financial security instruments for the risks of environmental damage upon starting and in the process of carrying out such activities.

The types of financial security instruments for the risks of environmental damage are:

- a) insurance;
- b) bank guarantee

The amount of financial security for the risks of environmental damage shall be determined based on the assessment of the risks of environmental damage and shall consist of the following stages:

- a) a risk assessment;
- b) a processing of the risks;
- c) an identification of expenses and a cost estimation for the worst-case scenario

The procedure for providing financial security for the risks of environmental damage caused by carrying out especially hazardous activities for the environment shall be established by a subordinate normative act of the Government of Georgia.

In the period from January **1 to July 31, 2022**, on the basis of the law, **four resolutions** of the Government of Georgia prepared by LEPL National Environmental Agency were adopted.

- ✓ "On determining the composition of the commission of the environmental protection program and approving its statutes" (24/06/2022 N335)
- ✓ "On the procedure for selecting substitute/adequate measures to be implemented on adjacent territory to the damaged site or another territory to remediate significant damage" (27/06/2022 N338)
- ✓ "On the criteria for determining the remedial measures for significant damage by the person responsible for causing significant damage to the environment and the procedure for drawing up the plan for remedial measures for significant damage" (04/07/2022 N347)
- ✓ "On the procedure for monetary compensation for the damage caused to the environment" (15/07/2022 N368)

THANK YOU FOR YOUR ATTENTION!!