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BASIC RIGHTS AND OBLIGATIONS OF

Employees and Employers

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Employees **AND**
Employers

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GEORGIAN
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People in Need

16 G. Kikodze str. 0105, Tbilisi, Georgia

Brochure on the basic rights of employees and employers in Georgia according to the new Labour Code of Georgia

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BASIC RIGHTS AND OBLIGATIONS OF EMPLOYEES AND EMPLOYERS

Labour relations in the territory of Georgia are regulated by the Labour Code of Georgia. The rights provided by the Labour Code are the minimum guarantees established by law, and it is unacceptable to determine other conditions by an employment agreement that may worsen the employee's condition.



WHAT ARE LABOUR RELATIONS?

- ☑ Labour relations are the performance of work by an employee for an employer under organised labour conditions in exchange for remuneration.
- ☑ Labour relations originate from agreements reached as a result of free expression of will based on the equality of participants.



WHO IS AN EMPLOYER?

- ☑ An employer is a natural or a legal person, or an association of persons, for whom certain work is being performed, under a labour agreement.



WHO IS AN EMPLOYEE?

- ☑ An employee is a person performing certain work for an employer under a labour agreement.



REFORM of the Labour Code

- ☑ On September 29, 2020, the Parliament of Georgia adopted amendments to the Labour Code of Georgia, which dealt with issues such as legal guarantees against discrimination, regulation of work and rest time, internship rules, improving women's labour rights, strike rules, rules for termination of employment agreements, and guarantees of the protection of rights.
- ☑ According to the Law of Georgia on Labour Inspection, the Labour Inspection Service has been established as a legal entity under public law under the Ministry of Labour, Health, and Social Affairs, and its powers have been expanded to oversee the implementation of labour rights.

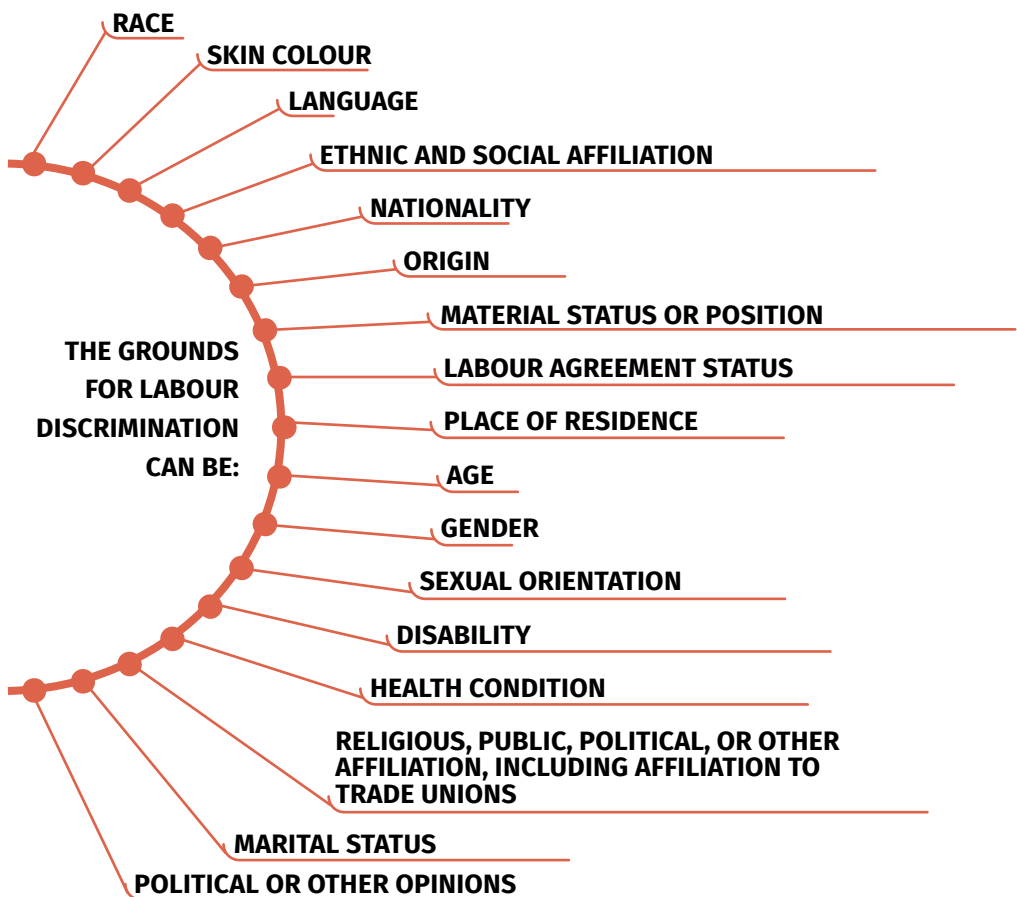


LABOUR DISCRIMINATION



1. CONCEPT, TYPES, AND GROUNDS OF DISCRIMINATION

- ☑ Discrimination in labour relations is unacceptable.
- ☑ Labour discrimination is discriminatory treatment of a person with the aim of depriving him/her of equal opportunities in employment or professional activities;
- ☑ Labour discrimination by an employer may be intentional or caused by negligence;



- ☑ The list of grounds for labour discrimination is not exhaustive, so a person can indicate any other grounds for discrimination in requesting the protection of the right to equality

2. SCOPE OF THE LABOUR DISCRIMINATION

Scope of the labour discrimination apply to the following:

- ☑ Selection criteria and conditions of employment;
- ☑ Access to career advancement;
- ☑ At all levels of the professional hierarchy and whatever the sector or branch of activity;
- ☑ Labour conditions and labour remuneration;
- ☑ Conditions for the termination of labour relations;
- ☑ Membership in employees' associations;
- ☑ Conditions of occupational social protection

3. THE BURDEN OF PROOF IN DISPUTES RELATED TO LABOUR DISCRIMINATION

- ☑ In the event of a dispute relating to the labour discrimination the burden of proof rests with an employer.
- ☑ A job candidate or employee may allege facts and/or circumstances which give rise to a reasonable belief that an employer has treated him/her in a discriminatory manner.

4. WHAT KIND OF MEASURES WILL NOT BE DEEMED DISCRIMINATORY?

- ☑ Special measures taken to meet the needs of persons who are normally recognised as requiring special protection or support shall not be deemed discrimination;
- ☑ Special measures may be directed at individuals who are recognized by the general public as having special needs, considering their gender, age, disability, family responsibility, social or cultural status;
- ☑ Special measures may be:
 - Giving preference in employment;
 - Creating special working conditions in the work process;
 - Existence of additional guarantees of protection upon dismissal.

REGULATORY NORMS:
LABOUR CODE, CHAPTER II, ARTICLES 4-9.



WORKING TIME, DURATION AND ESTABLISHED LIMITATIONS



1. WORKING TIME, BREAKS AND REST PERIODS



Standard working time shall not exceed 40 HOURS A WEEK



Working time does not include breaks and rest periods



Where the working day is no longer than 6 hours, THE DURATION OF A BREAK SHALL BE AT LEAST 60 MINUTES

- ☑ The duration of standard working time in enterprises with specific operating conditions **shall not exceed 48 hours a week** and the duration of uninterrupted rest between working days (or shifts) **shall not be less than 12 hours**.
- ☑ The Government of Georgia shall, after consulting social partners, compile a list of industries with specific operating conditions.
- ☑ Working two shifts in a row shall be prohibited;
- ☑ Per each seven-day period, every employee is entitled **to a uninterrupted rest period of 24 hours minimum**.

- ☑ A legal representative or supporter of a person with a disability may, in addition to rest days, enjoy another paid rest day once a month, or agree on working time other than that provided for by internal labour regulations.

2. DURATION OF WORKING TIME FOR MINORS

- ☑ The duration of working time for minors from the **age of 16 to 18 shall not exceed 36 hours per week, nor 6 hours per working day;**
- ☑ The duration of working time for minors from the age of 14 to 16 shall not exceed **24 hours per week, nor 4 hours per working day.**

3. LIMITS TO NIGHT WORK

- ☑ Night time shall mean the period between **22:00 and 6:00.**
- ☑ A night worker shall be any worker who:
 - During night time works **at least 3 hours** of his/her standard working time as a normal course;
 - Works during the night time a certain proportion of his/her annual working time;
 - The proportional rate of night work to annual working time shall be determined by the Ministries of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, after consulting social partners;
 - The maximum working time shall not exceed **8 hours per 24-hour** period for night workers **who perform arduous, harmful, or hazardous work.**

- ☑ A list of arduous, harmful, and hazardous working conditions are defined by the Law of Georgia on Labour Safety;

- **ARDUOUS WORK** – a working process, which exerts pressure on the musculoskeletal system or other functional systems (cardiovascular, respiratory, etc.), necessary for bodily functioning, and is characterized by physical dynamic pressure, the necessity of lifting or moving a load, the use of different stereotypical work movements, a significant magnitude of statistical pressure, specific forms of the working posture, a significant amount of the bending of the body, or other movements in a space
- **HARMFUL WORK** – that undertaken in an industrial environment and/or working process, of which the impact on a person under certain conditions (intensity, duration, etc.), can cause occupational disease, permanent or temporary inability to work, increase the frequency of somatic and infectious diseases, or cause genetic health disorders
- **HAZARDOUS WORK** – industrial environment and/or working process, which can become a reason for severe disease, sudden severe deterioration of health, or death

- ☑ Upon the request of a night worker, the employer shall provide the night worker with pre-employment and subsequent periodic medical examinations;

- ☑ If a night worker has, according to a medical report, a health problem due to performing night work, the employer shall, where possible, transfer him/her to a suitable day job.

4. OVERTIME WORK



- ☑ **Overtime work is work performed by an employee by agreement between the parties for a period of time that exceeds 40 hours under normal working conditions and 48 hours under specific operating conditions.**
- ☑ Overtime work is performed by agreement of the parties;
- ☑ The upper limit of an adult's overtime work is not determined;
- ☑ The total overtime work performed by minors shall not exceed **2 hours per working day and 4 hours per working week;**
- ☑ Overtime work shall be paid for at an increased hourly rate of remuneration. The amount of the said payment is not determined and shall be determined by agreement between the parties;
- ☑ The parties may agree on granting an additional proportional rest period to an employee to compensate for overtime work.
- ☑ According to the court practice, the amount of the hourly rate for overtime work is **125% of the standard hourly rate.**



5. RECORDING WORKING TIME



Employers shall, in writing and/or electronically, keep a record of the hours worked by employees



Employers shall make available to the employee the monthly records of the working time



An employee may use the working time record document to certify the work performed by him/her, especially in case of overtime work



The employer is obliged to keep the working time record document FOR 1 YEAR

6. LEAVE



An employee shall have the right to enjoy paid leave of at least 24 working days annually and the unpaid leave of at least 15 working days annually



An employee working under arduous, harmful, or hazardous labour conditions shall be granted an additional paid leave of 10 calendar days annually



An employee shall have the right to request leave after having worked for 11 months. By agreement between the parties, an employee may be granted leave even before the said period elapses



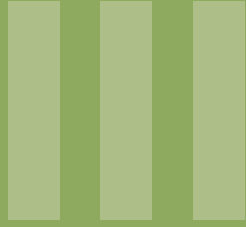
By agreement between the parties, an employee may use leave in parts



When taking unpaid leave, an employee shall notify the employer thereof 2 weeks prior to taking the leave, unless such notification is impossible due to urgent medical necessity or family circumstances

REGULATORY NORMS:

LABOUR CODE, CHAPTER V, ARTICLES 24-28; CHAPTER VI, ARTICLES 31-36;



ESTABLISHING INTERNSHIP RULES



III. ESTABLISHING INTERNSHIP RULES



- ☑ **An intern is a natural person who performs for an employer particular work, in order to upgrade his/her qualifications and to gain professional knowledge, skills, or practical experience.**
- ☑ Internship can be paid or unpaid:
- ☑ The duration of an unpaid internship shall not exceed **6 months**, and the duration of paid internship shall not exceed **1 year**.
- ☑ A person may do an unpaid internship with the same employer only once;
- ☑ The relations between interns and employers shall be regulated by a written agreement. Such agreement shall describe in detail the work to be performed by an intern;
- ☑ All the minimum standards of protection provided by the Labour Code shall apply to agreements concluded with interns;
- ☑ The internship rule does not apply to public institutions, including legal entities under public law.

IV

LEGAL STATUS OF WOMEN



1. ENSURING EQUALITY



- ☑ Discrimination on the grounds of gender and marital status is not allowed in labour relations.
- ☑ **Female and male employees shall receive equal pay for the same work or work of equal value.**
- ☑ **Sexual harassment at the workplace is prohibited;**
- ☑ **Sexual harassment is unwelcome conduct of a sexual nature towards a person, which is aimed at and/or infringes on his/ her dignity and creates an intimidating, hostile, humiliating, degrading, or abusive environment for him/her.**

2. TERMS AND CONDITIONS OF THE EMPLOYMENT AGREEMENT



- ☑ Employment agreements for performing arduous, harmful, or hazardous work shall not be concluded with pregnant women or women who have recently given birth or are breastfeeding.
- ☑ A pregnant woman, or a woman who has recently given birth or is breastfeeding, can request the performance of work that corresponds with her health condition based on her medical condition with an accompanying medical report.

- ☑ **Pregnant women, women who have recently given birth, women who are breastfeeding, or persons who have children under the age of 3 shall not be employed for overtime work without their consent. In this case, the employee's consent can be verified verbally or in writing.**
- ☑ **Pregnant women, women who have recently given birth, or women who are breastfeeding shall not be employed for night work;**
- ☑ **Persons who have CHILDREN UNDER THE AGE OF 3 can be employed for night work only with their consent.**

3. MATERNITY AND PARENTAL LEAVE



- ☑ **An employee shall, upon her request, be granted a paid maternity leave of **126 calendar days**, and in the case of complications during childbirth or the birth of twins, maternity leave of **143 calendar days**.**
- ☑ **Employees may distribute the period of leave at their discretion over the pregnancy and postnatal periods;**
- ☑ **A period of parental leave may be enjoyed in whole or in parts by the mother or the father of the child. Enjoyment of maternity leave as provided for by paragraph 1 of this article is an exclusive right of the mother of the child, although the father of the child has a right to enjoy the days of said leave which have not been used by the mother of the child.**

- ☑ When taking a period of parental leave, an employee shall notify the employer thereof 2 weeks prior to taking the leave. The employee shall use the paid part of maternity leave and parental leave in sequence, for 183 or 200 calendar days, respectively.
- ☑ If the employer and the employee fail to agree on the additional remuneration of the leave, **THE LEAVE WILL BE REIMBURSED FROM THE STATE BUDGET OF GEORGIA IN THE FORM OF ONE-TIME ASSISTANCE, THE TOTAL AMOUNT OF WHICH DOES NOT EXCEED 1000 GEL.**
- ☑ An employee shall, upon his/her request, be granted parental leave of 604 calendar days, and in the case of complications during childbirth or the birth of twins, a parental leave of 587 calendar days. 57 calendar days of the leave shall be paid.
- ☑ Employees who have adopted an infant under the age of 12 months shall, upon their request, be granted a period of new-born adoption leave of 550 calendar days from the birth of the child. 90 calendar days of the leave shall be paid.

4. ADDITIONAL GUARANTEES

- ☑ After the end of a period of maternity leave, parental leave, or new-born adoption leave, the employee shall have the right to return to the same job under the same employment conditions and to enjoy any improved employment conditions to which the employee would have been entitled if she or he had not taken the respective leave.
- ☑ A pregnant woman shall be granted additional time for a medical examination upon her request if said examination is to be performed during working time and she shall retain her remuneration;

- ☑ After the end of a period of maternity leave, upon the request of the employee, the employer shall ensure that the qualifications of the employee are upgraded if this is necessary for the performance of the work under the employment agreement, and does not impose a disproportionate burden on the employer.
- ☑ An employee may, upon his/her request, be granted, in whole or in parts, but not less than 2 weeks a year, additional unpaid parental leave of 12 weeks until the child turns 5.

**REGULATORY NORMS:
LABOUR CODE, CHAPTER VII, ARTICLES 37-40; CHAPTER V,
ARTICLE 22, ARTICLE 29;**

V

STRIKE





A STRIKE is an employee's temporary and voluntary refusal, in the case of a dispute, to fulfill, wholly or partially, the duties of an employment agreement;

THE RIGHT TO STRIKE ARISES:

After first sending a written notification to the Minister requesting the appointment of a mediator

By the granting of such a right by the Minister, on his/her own initiative, 21 calendar days after the appointment of the dispute mediator

- ☑ If employees do not participate in the mediation procedure and start a strike spontaneously, **SUCH A STRIKE WILL BE CONSIDERED ILLEGAL;**
- ☑ **The parties shall notify each other and the Minister in writing of the time, place, and type of strike, and the number of persons participating in a strike, not later than 3 calendar days before the strike.**



THE TIME
AND PLACE



TYPE
OF STRIKE



THE NUMBER
OF PERSONS
PARTICIPATING IN A
STRIKE

- ☑ The court may postpone, on one occasion only, the start of a strike or a lockout for a maximum of 30 days, or suspend a started strike for the same period, if the following are jeopardised:



- ☑ The list of critical services shall be determined by the Minister after consulting with social partners;
- ☑ Employees working for critical service providers may exercise the right to strike if they ensure that a minimum service is provided;
- ☑ **During a strike, the employer is not obliged to pay the employee.**
- ☑ The participation of an employee in a strike shall not be deemed to be a violation of labour discipline and shall not serve as a basis for terminating an employment agreement, unless the strike is illegal.

REGULATORY NORMS:

LABOUR CODE, CHAPTER XIV, ARTICLE 64;

VI

EMPLOYMENT AGREEMENT



- ☑ Prior to entering an employment agreement, an employer may obtain any information about a job candidate, with the exception of information that is not related to the performance of the job or is not designed to evaluate the ability of a candidate to perform a specific job and to make an appropriate decision in respect thereof.
- ☑ Prior to entering the employment agreement, an employer shall provide a job candidate with the following information:

- the work to be performed;
- the form (oral or written) and the period (fixed-term or open-ended) of an employment agreement;
- the employment conditions;
- the legal status of an employee in labour relations;
- the amount of remuneration.

- ☑ An employment agreement may be verbal or written, fixed-term or open-ended. An employment agreement shall be concluded in writing if labour relations last longer than 1 month.
- ☑ When the duration of an employment agreement is 1 year or longer, an employment agreement shall only be concluded for a fixed term if one of the following circumstances are present:

- a specific amount of work is to be performed;
- seasonal work is to be performed;
- the amount of work has temporarily increased;

- an employee being temporarily absent from work due to suspended labour relations is being replaced;
- there is another objective circumstance that justifies the conclusion of a fixed-term employment agreement.

- ☑ The employer has the right to conclude an employment contract with the employee for a trial period of no more than 6 months only once. An employment agreement for a trial period shall be concluded only in writing.
- ☑ The work performed during a trial period shall be paid for. The amount of payment and the payment procedure shall be determined by the agreement of the parties;
- ☑ An employer may, at any time during the trial period, conclude a fixed-term or an open-ended employment agreement with the employee, or terminate the employment agreement for a trial period.

REGULATORY NORMS:

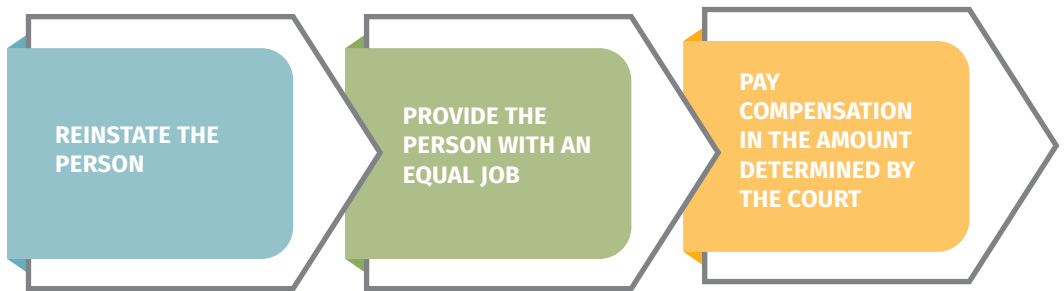
LABOUR CODE, CHAPTER III, ARTICLES 11-12, ARTICLE 17.

VII

APPEAL AGAINST TERMINATION OF EMPLOYMENT AGREEMENT AND PROTECTION MECHANISMS



- ☑ An employee may, within 30 calendar days from receiving an employer's written notice, appeal in court against the employer's decision on terminating the employment agreement;
- ☑ If an employer's decision on terminating the employment agreement is declared void by the court, the employer shall, under the court decision:



- ☑ An employee may, in addition, request compensation for lost earnings from the date when the employment agreement was terminated up to the date when the final court decision declaring void the employer's decision on terminating the employment agreement was enforced.

REGULATORY NORMS:
LABOUR CODE, CHAPTER X, ARTICLE 48.

VIII

INTERNAL LABOUR REGULATIONS



- ☑ An employer may establish internal labour regulations. An employer shall make internal labour regulations available to an employee for reading.
- ☑ Internal labour regulations shall constitute a written document which may determine:

- the duration of a working week, the start and end of a working day, and the duration of shifts in the case of shift work;
- the duration of breaks;
- the time, place, and procedure for remuneration;
- the duration of paid leave and the procedure for granting it;
- the duration of unpaid leave and the procedure for granting it;
- the rules for observing employment conditions;
- the types of incentives and liabilities and the procedure for their application;
- the procedures for reviewing applications/complaints.

**REGULATORY NORMS:
LABOUR CODE, CHAPTER IV, ARTICLE 24.**

IX

LABOUR INSPECTION



- ☑ Enforcement of the Labour Code is ensured by the Labour Inspection Service.



The powers of the Labour Inspection Service extend to:

- **Protection of occupational health and safety**
- **Protection of labour rights**



The Labour Inspection carries out the activities:

- **On their own initiative**
- **On the basis of an application by a person who believes that the requirements of the Labour Code are being violated at his/her workplace**



Labour Inspection is authorised to:

- **Inspect any public or private facility at any time of the day or night, without prior notification**
- **Without prior notification, on the basis of an order issued by a court, enter any building/space at any time of the day or night where there is a reasonable basis for the existence of forced labour and labour exploitation**

- ☑ Any person has the right to provide information to the Labour Inspection Service, including anonymously;
- ☑ Any natural or legal person is obliged to cooperate with the Labour Inspection Service, in particular: upon request, to immediately provide the document and/or information necessary for the inspection;

- ☑ The Labour Inspection is authorized to inspect documents containing professional secrets and/or personal data;
- ☑ The Labour Inspection is authorized, using the principle of proportionality, to impose the following sanctions on individuals and legal entities:



Warning



A fine, the amount of which varies according to the size of the enterprise and the category of violation and ranges from 200 to 3,000 GEL



Suspension of the work process

- ☑ The Labour Inspection Service shall submit an annual report on the activities of the Labour Inspection Service to the Parliament of Georgia.

REGULATORY NORMS:

LABOUR CODE, CHAPTER XVII, ARTICLES 75-76; LAW OF GEORGIA ON OCCUPATIONAL HEALTH AND SAFETY, ARTICLE 1, ARTICLE 2, ARTICLES 10-13.

X

**THE RIGHT TO
FORM AND JOIN
AN UNION
OF EMPLOYEES**




- ☑ Employees may form union and/or join other unions without any preliminary permission.
- ☑ Employees' unions may develop their own charters and regulations, establish management bodies, elect representatives, and administer activities.
- ☑ It shall be prohibited to discriminate against employees for being members of an employees' unions or for participating in the activities of such an union, and/or to perform any other activities aiming at:
 - hiring employees or retaining jobs for them in exchange for their refusal to join, or withdrawal from, an employees' association;
 - terminating labour relations with or otherwise persecuting employees for being members of an employees' union or for participating in the activities of such an union.


REGULATORY NORMS:
LABOUR CODE, CHAPTER XI, ARTICLES 52-54.




IF YOU FEEL THAT YOUR LABOUR RIGHTS HAVE BEEN VIOLATED, YOU CAN SEEK LEGAL ADVICE AND ASSISTANCE:

**Georgian Young Lawyers Association
Legal Aid Center,**

 **Tbilisi, Uznadze St. # 101;**


 **Tel: (995 32) 299 50 76;**

 **Email: legalaid@gyla.ge**

Legal Aid Service


 **Hotline Number: 292 00 55**

Labour Inspection Service

 **Hotline Number: 15 05,**

 **E-mail: info@lmo.gov.ge**

**Information on more organizations
can be gained on free legal aid portal:**

 **<http://free.mylaw.ge/ka.pbn> (032) 2954475**



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