

LAW OF GEORGIA

ON NATIONAL REGULATORY BODIES

Law of Georgia No 1584 of 20 November 2013 - website, 03.12.2013

Chapter I - General Provisions

Article 1 - Objectives of the Law

1. The aim of this Law is to build a solid legal foundation and proper institutional environment for the stable functioning of the National Regulatory Bodies of Georgia for the purposes of balancing the interests of licence holders and licence users in different fields of the economy, and to ensure the implementation of effective price setting strategies for goods and services, as well as their effective delivery.

2. This Law establishes the independence of the National Regulatory Bodies of Georgia from any political pressure or inappropriate effect or unlawful interference from state authorities and other bodies or any other actions that may infringe upon their independence; and also establishes the authority of the National Regulatory Bodies to perform their regulatory functions in specific fields, as well as their responsibility to implement transparent and reliable decision-making procedures, and to abide by core principles in the formation, operation and organisation of National Regulatory Bodies.

Law of Georgia No 1859 of 1 July 2007- LHG I, No 1859, 15.7.2005, Art. 259

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Article 2 - Scope of the Law

1. This Law is applicable to all bodies which, according to this Law and its subordinate normative acts, are defined as National Regulatory Bodies.

2. The National Regulatory Bodies of Georgia are as follows:

- a) the Georgian National Communications Commission;
- b) the Georgian National Energy and Water Supply Regulatory Commission.

Law of Georgia No 2951 of 14 August 2003 - LHG I, No 2951, 10.09.2003, Art. 197

Law of Georgia No 1859 of 1 July 2005- LHG I, No 38, 15.7.2005, Art. 259

Law of Georgia No 4297 of 29 December 2006 - LHG I, No 1, 31.12.2006, Art. 9

Law of Georgia No 4595 of 30 March 2007 - LHG I, No 11, 10.04.2007, Art. 99

Law of Georgia No 4864 of 5 June 2007 - LHG I, No 22, 19.6.2007, Art. 193

Law of Georgia No 5468 of 20 November 2007 - LHGI, No 40, 03. 12 .2007 379

November 2013 - website, 3.12.2013 Law of Georgia No 1590 of 20 November 2013 - website, 3.12.2013

Article 3 - Definition of Terms

The terms used herein have the following meanings for the purposes of this Law:

- a) inappropriate effect and unlawful interference – any action by a person, in particular, the influence on, the interference in, the obstruction of or any other kind of influence on the outcome of discussions in National Regulatory Bodies and their decision-making, and on the free and independent discussions by members of the National Regulatory Bodies or the activities of officials within National Regulatory Bodies, in order to derive a benefit or privileged treatment, and in a manner that is incompatible with this Law and other legislative or subordinate normative acts of Georgia;
- b) decision – a legal act such as a resolution, decision, etc., adopted by National Regulatory Bodies on the basis of the law;
- c) National Regulatory Body – a Legal Entity under Public Law with special rights and capacities founded by the state for the purposes of regulating a specific field, which is not controlled by other state controlling bodies and is independent from state agencies, and which operates within the framework of this Law and the authority determined by the corresponding law;
- d) independence – the capability of a National Regulatory Body and members thereof to exercise authority provided by the corresponding law of the National Regulatory Body without being subject to any kind of inappropriate effect or unlawful interference, including discussing, exploring and deciding the issues within its competence. State agencies shall not interfere in the activities of National Regulatory Bodies, or control them or require reports regarding their activities, if this is not envisaged in the corresponding law;
- e) commissioner – a person who, under this Law and the corresponding law of a National Regulatory Body, is appointed as a member of a commission on



the basis of the corresponding legal act;

f) family member – father, mother, spouse or child of a commissioner;

g) political pressure – an inappropriate effect and the unlawful interference motivated by political considerations or the desire of a person or a group of persons to achieve political objectives;

g) authority – the rights and responsibilities defined by the corresponding law of a National Regulatory Body and delegated to the same National Regulatory Body;

h) legal capacity – a person's ability to have rights and responsibilities;

i) corresponding law – the Law of Georgia defining the basic functions, rights and responsibilities of a National Regulatory Body;

j) body – natural and legal persons of any kind of organisational or legal form, as well as state authorities, executive agencies and other state or local self-government bodies;

k) regulation – adoption of legal acts by National Regulatory Bodies, and the issuance of licences/permits, and the exercise of control over them, and the monitoring, coordination and supervision of compliance with licence/permit conditions;

l) Public Defender of consumers' interests (Public Defender) – defender of consumers of a corresponding service.

Law of Georgia No 2535 of 22 July - LHG I, No 2535, 08.08.2003, Art. 164

Law of Georgia No 1859 of 1 July 2005- LHG I, No 1859, 15.7.2005, Art. 259

Law of Georgia No 4297 of 29 December 2006 - LHG I, No 1, 31.1.2007, Art. 9

Law of Georgia No 4864 of 5 June 2007 – LHG I, No 22, 19.6.2007, Article 193

Law of Georgia No 1693 of 24 September 2009 – LHG I, No 29, 12.10.2009, Art. 176

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Article 4 - Principles of this Law

1. In the ordinary course of its activities, a National Regulatory Body shall be guided by the principles of independence, publicity and responsibility.

2. Any type of interference in the ordinary course of activities of a National Regulatory Body, or of its control, or requesting a report regarding its activities, shall not be permitted unless otherwise provided for by law.

3. The core principles which determine independence are as follows:

a) the impermissibility of any kind of control over National Regulatory Bodies; and the submission of reports only to the President of Georgia, the Government of Georgia and the Parliament of Georgia in accordance with the corresponding law;

b) the determination of the liability of a National Regulatory Body or a commissioner through the court unless otherwise determined by the legislation of Georgia;

c) the appointment of a commissioner only in compliance with the procedures determined by the corresponding law;

d) the impermissibility of transferring public functions (including the function of balancing the interests of licence holders and consumers) assigned under the law to other bodies or to private legal persons .

4. A body shall not be defined as a National Regulatory Body if, in accordance with the corresponding law, it does not operate in compliance with all the principles listed in paragraph 3 of this article or if it operates in compliance with different regulations and procedures.

5. National Regulatory Bodies shall arrange public discussions with regard to exercising licensing and tariff authorities in accordance with the procedures determined by Chapter IX of General Administrative Code of Georgia. Decisions made without performing these procedures shall be void.

6. Only the court is entitled to reconsider decisions by National Regulatory Bodies as provided for by Article 18 of this Law.

7. Paragraph 5 of this article shall not apply to decisions made before this Law comes into force.

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Chapter II - Main characteristics of authorities

Article 5 - Procedures and authority to create National Regulatory Bodies

1. The Parliament of Georgia shall elect the members of a National Regulatory Body, and after agreeing with the Government of Georgia, shall present



the said members to the Parliament of Georgia.

2. The matters within the scope of authority of a National Regulatory Body are determined by the corresponding law. This scope of the authority shall not be subject to any kind of an inappropriate effect or unlawful interference.

3. National Regulatory Bodies and commissioners shall enjoy full independence within the framework of the corresponding law in making decisions concerning the issues within their competence, as well as in taking legal action. Commissioners shall not be subject to an inappropriate effect or unlawful interference in the normal course of performing their responsibilities.

4. Inappropriate effect and unlawful interference or any attempt at such with regard to the plans, beliefs, decisions, activities or inactivities of a commissioner or a member of the administrative staff of a National Regulatory Body shall be illegal, and any decisions made under such inappropriate effect or unlawful interference shall be declared void.

5. Commissioners are entitled to file a motion with the court in order to prevent and/or eliminate such inappropriate effect or unlawful interference with regard to them.

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Article 6 - Independence

1. Within their scope of their activities, National Regulatory Bodies and commissioners shall be independent and shall comply with the legislation of Georgia only. Only National Regulatory Bodies are entitled to exercise full authority with regard to the matters which are delegated to them by the corresponding law.

2. Dual, concurrent regulatory authority shall not be permitted.

3. Any attempt by a person to exercise jurisdiction over the scope of authority of a National Regulatory Body shall be illegal, and the consequences thereof shall have no legal force.

4. A National Regulatory Body may enrol, or cooperate with, or consult with, or develop any other kind of relations with international organisations (associations), foundations or non-profit (non-commercial) legal entities with scopes of authority which are the same as or similar to that of the National Regulatory Body.

5. Completion of an agreement imposing obligations on Georgia on the part of a National Regulatory Body shall not be permitted, except for the cases envisaged in the legislation of Georgia.

Law of Georgia No 3970 of 14 December 2006 - LHG I, No 48, 22.12.2006, Art. 337

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Article 7 - Financial Independence

1. The expenses of National Regulatory Bodies are financed by regulation fees and other revenue as provided for by the legislation of Georgia.

2. Any person who carries out or intends to carry out activities which fall within the scope of authority of a National Regulatory Body shall pay regulation fees.

3. A regulation fee shall be determined so that it is enough to cover the expenses provided for by the budget of a National Regulatory Body. It shall be transferred to a separate bank account and the corresponding National Regulatory Body may have access to it and may use it for specific purposes.

4. Funds which are not used by a National Regulatory Body during any current year shall be transferred to the account of the next year and shall be taken into account in the event of any change in regulation fees.

5. The act of receiving regulation fees by a National Regulatory Body shall not be defined as an economic activity.

Law of Georgia No 1859 of 1 July 2005- LGH I, No 38, 15.7.2005, Art. 259

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Article 8 - Budget

1. National Regulatory Bodies formulate budgets within the terms determined by the corresponding law.

2. The expenditure side of the budget of a National Regulatory body shall comprise compulsory current and capital annual expenses required for exercising the authority granted by the corresponding law, as well as the expenses envisaged in Article 17(1) of this Law.

3. National Regulatory Bodies may not allocate funds from their own budget for the purposes of creating a charity or any other similar non-entrepreneurial (non-commercial) legal person or incur expenses, including expenses for different types of aid or sponsorship, that are incompatible with the functions provided for by the corresponding law.

4. The requirements provided for by paragraph 3 of this article do not apply to membership fees for the enrolment of a National Regulatory Body into



international organisations (associations) and foundations, as well as non-entrepreneurial (non-commercial) legal persons.

Law of Georgia No 3970 of 14 December 2006 - LHG I, No 48, 22.12.2006, Art. 337

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Article 9 - Authority to issue normative acts

1. National Regulatory Bodies are authorised to adopt statutory rules of conduct of a legal nature (normative acts) within their competence.
2. A resolution from a National Commission is a normative act of the National Regulatory Body.
3. National Regulatory Bodies shall issue normative acts in accordance with the Law on Normative Acts of Georgia.

Law of Georgia No 1859 of 1 July 2005- LGH I, No 38, 15.7.2005, Art. 259

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Article 10 - Authority to issue licences and permits

1. National Regulatory Bodies are fully authorised, within their competence to issue licences and permits, terminate them, extend their validity, modify them or void them.
2. Interference in the authority of a National Regulatory Body to issue licences and permits, as well as any attempt to control such authority, shall not be permitted.
3. (Deleted).
4. (Deleted).

Law of Georgia No 1796 of 24 June 2005- LHG I, No 38, 15.7.2005, Article 254

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Article 11 - Authority to set and regulate tariffs

1. A National Regulatory Body is fully authorised within its competence to set and regulate tariffs within the framework of this Law.
2. Interference in the authority of the National Regulatory Body to issue licences and permits, as well as any attempt to control such authority shall not be permitted.

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Article 12 - Authority to Resolve Disputes

1. National Regulatory Bodies are authorised to resolve any disputes with regard to the issues within their scope of competence between the holders of licences and/or permits issued by the National Regulatory Body or disputes between the holders of these licenses/permits and the users.
2. Decisions with regard to the disputes provided for paragraph 1 of this article made by the National Regulatory Body may be appealed in the court in accordance with the procedures provided for by Article 18 of this Law.

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Article 13 - Protection of consumers' interests

1. Some of the major functions of a National Regulatory Body are to provide consumers with public information, to review their petitions and complaints, and to resolve them. Petitions and complaints shall be accepted every working day.
2. The commission considers applications and complaints of consumers at a public hearing, except for the cases provided for by the General Administrative Code of Georgia, when performing organized procedures is not required to resolve disputes. National Regulatory Bodies shall invite the parties concerned at least 7 days prior to conducting the public hearing. A notice of invitation may be promulgated in any manner. The notice shall include information regarding the issues to be discussed at the public hearing, as well as the date, place and time set for the hearing.
3. The public hearing shall be chaired by an authorized official, who shall ensure that circumstances pertinent to the case are examined, and that documents relevant to the case are requested, and that the right to freedom of expression is exercised. A protocol on the public hearing shall be drawn up in accordance with the procedures provided for by legislation.



4. The primary objective of the public hearing shall be the peaceful resolution of the dispute.
5. The National Regulatory Body shall deliver decisions on the basis of the legislation of Georgia, and such decisions shall be binding for the parties. The decision may be appealed in compliance with predetermined procedures and terms.
6. Other procedural issues related to considering and solving filed petitions and complaints are defined pursuant to a decision by the National Regulatory Body.
7. In order to provide extra guarantees for protecting consumers' interests, together with National Regulatory Bodies, the Public Defender's service for consumers' interests shall be created, which shall independent from the administrative staff of National Regulatory Bodies.

Law of Georgia No 2535 of 22 July 20073– LHG I, No 08.08.2003, Article 164

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Article 14 - Commissioners

1. Commissioners shall be appointed and removed from office in accordance with procedures determined by law.
2. Unless otherwise determined by law, commissioners may be removed from office for one of the following reasons:
 - a) the entry into force of a criminal conviction against them;
 - b) a violation of the norms of ethics;
 - c) a failure to perform professional duties under the terms determined by the corresponding law;
 - e) recognition by a court of a commissioner as missing, or on his/her pronouncement as dead or recognition as a beneficiary of support unless otherwise determined by a court decision;
 - e) the loss of Georgian citizenship;
 - f) retirement;
 - g) death
3. Commissioners are entitled to appeal decisions on their dismissal in compliance with the procedures determined by the legislation of Georgia.

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Law of Georgia No 3377 of 20 March 2015 – website, 31.3.2015

Article 15 - Norms of ethics

1. The procedures determined by this and the corresponding laws apply to commissioners with regard to ethics and conflict of interests.
2. Commissioners shall suspend their membership of a political party before the expiration of the term of service as a commissioner. The formation of a political party, as well as a public organisation and its structural units, within a National Regulatory Body shall not be permitted.
3. Commissioners or their family members, as well as members of the administrative staff of a National Regulatory Body, shall not be allowed to have a direct or indirect financial interest in a licensee, or hold a post in an enterprise, holding a licence granted by a National Regulatory Body.
4. Commissioners or members of the administrative staff of a National Regulatory Body shall not be allowed to receive gifts from a person or an organisation under the authority of a National Regulatory Body, nor to enjoy preferential or free services offered by the same person or organisation, except for cases where such services are generally available.
5. Commissioners and members of the administrative staff of a National Regulatory Body are entitled to use the services offered by a person under the authority of a National Regulatory Body.
6. Commissioners shall complete and submit a Declaration on their Property Status in compliance with the procedures provided for by the Law of Georgia on Corruption and Incompatibility of Interests in Public Service.

[6. Commissioners shall complete and submit a Declaration on their Property Status in compliance with the procedures provided for by the Law of Georgia on Corruption and Incompatibility of Interests in Public Service. **(Shall become effective from 1 January 2017)**]

Law of Georgia No 310 of 2 October 2008– LHG I, No 20.10.2008, Article 156

Law of Georgia No 1584 of 20 November 2013 - website, 3.12.2013

Law of Georgia No 4385 of 27 October 2015 – website, 11.11. 2015



Article 15¹ - Authority of Public Defender

1. The Public Defender is entitled to:

- a) defend consumers' interests;
- b) assess the impact of tariff and other regulatory changes on consumers;
- c) present himself/herself as a party on behalf of consumers;
- d) become familiarized with all documents and materials to which access are not limited by a National Regulatory Body;
- e) represent individual consumers in a dispute with a service company;
- f) together with the legislative and executive government, formulate projects for normative acts which may influence consumers' interests.

2. For the purposes of the protection of consumers' interests, a Public Defender has assistants specializing in relevant fields.

3. The professional activity of the Public Defender shall form a constituent component of regulatory activity, and such activity shall be financed by the regulation fees paid to the relevant regulatory body, and shall be included in the budget of the said regulatory body.

4. The amount of remuneration shall be determined under the terms and conditions of the competition for the position of Public Defender.

5. The Public Defender and his/her assistants are not entitled to receive any remuneration from consumers.

6. The involvement of the Public Defender in proceedings shall not impose any restrictions on other parties representing consumers.

7. This Chapter does not restrict the rights and obligations of a National Regulatory Body to protect its consumers in accordance with the legislation of Georgia.

Law of Georgia No 2535 of 22 July 20073– LHG I, No 08.08.2003, Article 164

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Article 15² - Appointment and term of the authority of the Public Defender and assistants of the Public Defender

1. A Public Defender shall be elected through an open competition. On the basis of a decision by the competition commission, within 10 days, the chairperson of the corresponding National Regulatory Body shall issue an order on the appointment of the Public Defender.

2. The Sector Economy and Economic Policy Committee of the Parliament of Georgia shall form a competition commission tasked with the selection of a Public Defender comprising at least 12 members. The competition commission shall comprise representatives of the parliamentary majority, and the minority, and independent MPs, as well as representatives of the Public Defender of Georgia and the corresponding National Regulatory Body. Decisions on the appointment of the chairperson of the competition commission and the Public Defender shall be made by the majority of its members.

3. The chairperson of the corresponding National Regulatory Body shall appoint an assistant of the Public Defender following suggestions by the Public Defender. The term of the authority of the assistant of the Public Defender shall be the same as that of the Public Defender.

4. Articles 29 and 32 of the Law of Georgia on Public Service do not apply to the appointment procedures of a Public Defender.

5. The amount of remuneration of a Public Defender shall be determined by the chairperson of the corresponding National Regulatory Body.

6. Public Defenders are appointed for a term of five years

7. A Public Defender may be removed from office before the expiration of the term of office only in the event of a violation of the requirements of Articles 15³ and 15⁴ of this Law or for one of the following reasons:

- a) personal application;
- b) upon the entry into force of a criminal conviction against him/her;
- c) a declaration by the court of a person as missing or dead or recognition as a beneficiary of support, unless otherwise determined by a court decision;

Law of Georgia No 2535 of 22 July 20073– LHG I, No 08.08.2003, Article 164

Law of Georgia No 4528 of 8 April 2011 - website, 2.5.2011

Law of Georgia No 6566 of 28 July 2012– website, 9.7.2012



Article 15³ - Qualification and incompatibility with the duties of Public Defender

1. Public Defenders shall have higher legal education, expertise in the relevant field of natural monopolies and consumer rights, as well as the authorization to practise law.
2. Public Defenders may not be members of any party.
3. All requirements which apply to public officials under the Law of Georgia on Corruption and Incompatibility of Interests in Public Service shall apply to the Public Defender.

[3. All requirements which apply to public officials under the Law of Georgia on Corruption and Incompatibility of Interests in Public Service shall apply to the Public Defender. **(Shall become effective from 1 January 2017)**]

Law of Georgia No 2535 of 22 July 20073– LHG I, No 08.08.2003, Article 164

Law of Georgia No 4385 of 27 October 2015 – website, 11.11. 2015

Article 15⁴ - Publicity

Public Defenders shall present financial reports for the previous year and a report regarding the activities to a National Regulatory Body not later than March of each year, and shall provide the general public with such data through the press and other mass media outlets. A separate article of expenditure in the budget of the relevant National Regulatory Body shall include expenses incurred by the Public Defender in performing his assigned duties.

Law of Georgia No 2535 of 22 July 20073– LHG I, No 08.08.2003, Article 164

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Chapter III - Publicity

Article 16 - Sessions of National Regulatory Bodies and confidentiality of information

1. The sessions of a National Regulatory Body shall be open to the public, except for the cases provided for by the corresponding law. The decisions of a National Regulatory Body shall be promulgated in accordance with established procedures.
2. National Regulatory Bodies shall keep a record of the proceedings of its sessions and other relevant documents for at least 7 years. Commissioners and persons concerned may have unrestricted access to all records and other documents stored in the relevant National Regulatory Body.
3. All decisions, records and other documents of a National Regulatory Body shall be available for public discussion. The procedure for the maintenance of confidentiality of the information kept by a National Regulatory Body shall be determined by the National Regulatory Body in question in accordance with the legislation of Georgia.
4. National Regulatory Bodies shall conduct public discussions in accordance with the procedures determined by Chapter IX of the General Administrative Code of Georgia, with regard to issuing licences, and modifying, revoking or suspending licences, as well as with regard to setting, modifying or revoking tariffs, before making any decisions concerning the said matters. Decisions made without such procedures shall be invalid.

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Article 17 - Submission of the report of activities

A National Regulatory Body shall annually prepare a report regarding its activities and shall conduct a financial audit of its expenses and accounts in accordance with international accounting standards. The Parliament of Georgia is authorised to make decisions as to whether an audit of compliance of the National Regulatory Body with the approved budget should be conducted. The audit of a National Regulatory Body shall be conducted by independent auditors elected by a tender commission, whose composition shall be approved by the Parliament of Georgia upon presentation by the Sector Economy and Economic Policy Committee thereof. The compensatory expenses of an auditor elected for the inspection of financial activities shall be met by the relevant National Regulatory Body under all circumstances. The National Regulatory Body shall publicise the report regarding its financial activities as well as the results of the financial audit.

Law of Georgia No 1859 of 1 July 2005- LGH I, No 38, 15.7.2005, Art. 259

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Article 18 - Appeal of a decision of a National Regulatory Body

Appeals against the decisions of a National Regulatory Body may be filed with the Constitutional Court of Georgia and the Common Courts of Georgia.

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Article 19 - Liability

Breach of this Law shall result in liability under the rules determined by the legislation of Georgia.

Chapter IV - Transitional Provisions

Article 20 - Measures related to the entry into force of this Law

1. Within 5 months from the publication of this Law, the Georgian National Energy Regulatory Commission and the Georgian National Communications Commission shall draw up and adopt regulations on:

- a) the professional performance and ethical conduct of members of a commission and administrative staff, including rules for ex parte notifications and the rules of conduct of the former members of the commission and the former members of the administrative staff with regard to matters related to a commission;
- b) the procedures for relations with mass media outlets;
- c) the keeping and availability of decisions, and records and other documents of a commission, including confidential information and the information received during discussions;
- d) the procedures for holding public discussions to ensure the transparency of the process of regulation and the involvement of the general public;
- e) the procedures for receiving, reviewing and solving petitions with regard to licences, tariffs and other matters within the authority of a commission;
- f) the procedures for the preparation and publication of the decisions of a commission;
- g) the investigation of the facts of alleged non-compliance with the decisions of a commission and the response to them;
- h) the discussion and solution of disputes between the holders of licences or the holders of licences and users;
- i) the procedures for receiving, reviewing and solving complaints from consumers.

2. Within three months from the promulgation of this Law, the executive authority of Georgia shall prepare and submit to the Parliament of Georgia draft legislation on the changes and amendments to the Law of Georgia on the Protection of Consumers Rights in order to enhance mechanisms for the protection of the rights of consumers in the areas regulated by National Regulatory Bodies as determined by this Law.

3. Prior to the enactment of this Law, the authority of a Public Defender as determined by this Law shall extend to the Defender of the Rights of Consumers elected through open competition in a National Regulatory Body.

Law of Georgia No 2535 of 22 July 2007– LHG I, No 08.08.2003, Article 164

Article 20¹(Deleted)

Law of Georgia No 2673 of 17 February 2006 - LHGI, No 6, 24.02.2006 Art. 70

Law of Georgia No 2829 of 31 March 2006– LHG I, No 9, 31.3.2006, Art. 83

Law of Georgia No 4597 of 30 March 2007 - LHGI, No 11, 10.4.2007, Art. 101

Chapter V - Final Provisions

Article 21 - Entry into force of this Law

This law shall enter into force from 15 October 2002



President of Georgia

Eduard Shevardnadze

Tbilisi

13 September 2002

№1666-I

