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## HOW TO OBTAIN AN ENVIRONMENTAL IMPACT PERMIT

### WHAT is an Environmental Impact Permit and WHO needs to obtain it?

An Environmental Impact Permit (the "**Permit**") is granted for an indefinite term by the Ministry of Environment and Natural Resources Protection of Georgia (the "**Ministry**") pursuant to the rules and procedures set forth under the laws of Georgia.

Any natural person, legal entity, or other organizational unit prescribed under law (which is not a legal entity), who plans to engage in the activities that are subject to mandatory ecological expertise (as explained below), must apply to the Ministry and obtain the Permit to perform such activities ("**Permit Seeker**"). In particular, the activities subject to the mandatory ecological expertise (the "**Activities**" or the "**Activity**") are as follows:

- a. The processing of minerals (the processing of construction (including inert) materials, except for those envisaged under clause "c", are not subject to ecological expertise);
- b. Any manufacturing technology, which uses asbestos;
- c. The production of cement, asphalt, lime, plaster and brick;
- d. The manufacturing of glass and glass products;
- e. The recycling of waste, except preliminary processing of non-hazardous waste;
- f. The disposal of waste, except preliminary processing of non-hazardous waste;
- g. The preliminary processing of hazardous waste;
- h. The arrangement of temporary storage unit for more than 10 tons of hazardous waste;
- i. The arrangement of landfills for radioactive waste (burial);
- j. The production of any capacity related to coal gasification, dilution, briquetting and coking;
- k. The installation of main oil and gas pipelines;
- l. The arrangement of storages and terminals for oil and oil products, as well as liquid and natural gas. The volume of one of the tanks located on the territory of these storages and terminals, or the total volume of these tanks, should exceed 1,000 cubic meters;
- m. The construction of international and national roadways, railways and bridges located thereon, and underway crossings, as well as the buildings for the engineering protection of these highways, railroads and their territories;
- n. The installation of high-voltage (35 kV or more) air and cable transmission lines and substations (110 kV and more);
- o. The arrangement of a hydro-electric power station (2 MW or more) and a thermal power plant (10 MW and more);
- p. The construction of an underground railway;
- q. The arrangement of a water reservoir (10,000 cubic meters and more);
- r. The arrangement of a wastewater treatment facility (with volume of 1,000 cubic meters or more per 24 hours) and the main sewage collector;
- s. The arrangement of an aerodrome, airport, railway station and a sea port;

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- t. The arrangement of a dam, harbor, pier, breakwater and shaft;
- u. Chemical industry, namely: the chemical processing of intermediate products and the production of chemical substances; the manufacturing and processing of pesticides, mineral fertilizers, chemical dye, polish, peroxides and elastic material (rubber or plastic materials); the production of gunpowder and other explosives; the production of accumulators; the manufacturing of graphite electrodes;
- v. Oil and gas refineries (500 tons or more per 24 hours);
- w. Any metallurgical production (with the capacity of more than a ton per hour), except for the cold processing of metals and jewelry production;
- x. The storage of toxic and other hazardous substances.

Any construction related to the above Activities or any modification of manufacturing technology which changes the terms of use of the technology is also subject to ecological expertise.

### **HOW to obtain the Permit?**

A person planning to undertake one of the Activities initiates the process of obtaining the Permit. The Ministry issues the Permit following the four basic steps:

- STEP 1: Environmental Impact Assessment;
- STEP 2: Application to the Ministry;
- STEP 3: Ecological Expertise; and
- STEP 4: Issuance of the Permit.

#### **1. STEP 1: ENVIRONMENTAL IMPACT ASSESSMENT**

Environmental Impact Assessment (the "**Assessment**") is the first step towards obtaining the Permit.

##### ***WHAT is the Assessment?***

The Assessment is a procedure which aims to examine the planned Activity for the purpose of protecting various components of environment, population, landscape and cultural heritage. The Assessment studies, identifies and describes any direct and indirect impact of the Activity on human health and safety, vegetation and animals, soil, air, water, climate, landscape, ecosystems and historical monuments, or the combination of these factors, including the impact of these factors on cultural heritage and socio-economic factors. The Assessment includes the development of strategies for impact control and monitoring, mitigation and prevention.

In order to expedite launching the planned Activity, the Permit Seeker can be released from

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the duty to perform the Assessment (the "**Release**"). The Release can be granted if the general state interest requires launching the planned Activity without delay.

The Release procedure is administered by the Special Council for Environmental Impact (the "**Council**") under the Ministry. The Council examines applications regarding Release submitted by the Permit Seeker and following a formal hearing prepares a recommendation to the Ministry with respect to the Release. The Ministry makes a final decision about the Release.

*WHO is responsible for conducting the Assessment?*

The Permit Seeker organizes, conducts and pays for the Assessment.

### *THE Assessment Report*

The results of the Assessment are formulated in an Environmental Impact Assessment Report (the "**Report**"), which combines information received from various stages of the Assessment and forms a comprehensive document, both descriptive and analytical in nature. The Report also outlines the possible areas of risk and provides proactive solutions to foreseeable emergencies.

### *PUBLIC HEARING*

For the purposes of public involvement, the Permit Seeker is required to hold a public hearing before submitting an application to the Ministry. The hearing must be announced by means of a central periodical, as well as a local periodical (if any) of the self-government unit where the planned Activity is to be performed (the "**Publication**").

Following the Publication:

- Within 1 week after having announced the information on the planned Activity in a central, as well as a local periodical, the Permit Seeker is obliged to present the Report, both in electronic format and in hard copy, to the Ministry;
- Within 45 days, the Permit Seeker must receive and consider any remarks and opinions submitted in writing;
- No earlier than 50 days and no later than 60 days, the Permit Seeker must hold a public hearing and invite the representatives of local self-government, the Ministry, the Ministry of Economy and Sustainable Development of Georgia, and any other relevant administrative authority. Within 5 days from the public hearing, the outcomes of the hearing must be documented in a protocol, which should describe in detail the remarks and opinions expressed during the public hearing.

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The Permit Seeker submits an application to the Ministry for the issuance of the Permit within one year from the date of the public hearing.

## **2. STEP 2: APPLICATION TO THE MINISTRY**

Following the Assessment (Step 1), the Permit Seeker submits an application to the Ministry, requesting the issuance of a Permit. The written application must be presented together with the project documentation.

Specifically, the following documents must be presented to the Ministry:

- The Report (5 hard copies and an electronic version) with the following supplements:
  - a. Documents evidencing agreement with the administrative bodies, which are responsible for deciding on various aspects related to the planned Activity at different stages;
  - b. Material evidencing public involvement in the process of Assessment, particularly descriptive of disagreement (if any). If the Permit Seeker does not share any relevant remark or opinion expressed by the members of public prior to or during the public hearing, the Permit Seeker provides a written justification for such disagreement and sends it to the author. Such written justification is also presented to the Ministry, together with the protocol and the Report, and forms an integral part of the Report;
  - c. Plan of any measures to mitigate environmental impact;
  - d. Plans for reacting to emergencies, considering local specifics;
  - e. A short, non-technical résumé of the Assessment, together with graphic and other illustrative material in order to ensure public involvement and awareness regarding the project;
  - f. Names and registered addresses of organizations or consultation firms, who participated in the Assessment and the preparation of its results;
  - g. A short note on the aims of the project and justification for its implementation;
  - h. Criteria for selecting the location of the planned Activity, with relevant alternatives;
  - i. A short description of the existing state of environment to be subjected to impact;
  - j. GIS (Geographic Information System), coordinates, situational map and general map of the location of the planned Activity, indicating the production site, temporary constructions, communication and

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- sources of impact;
- k. Literature used in the process of project development (indicating the sources), list of laws and other normative acts;
  - l. Extract from the Public Registry.
    - The situational plan (indicating distances) of the location of the planned Activity;
    - The volume and type of expected emissions (the maximum permissible emission of hazardous substances) (4 copies);
    - A short résumé of the Activity (in the form of a technical résumé).

The Permit Seeker must also present a full scheme of the technological cycle even if the Activity contains a commercial and/or state secret. In such case, confidential information should be presented separately.

### **3. STEP 3: ECOLOGICAL EXPERTISE**

Ecological Expertise (the "**Expertise**") is the third step towards obtaining the Permit.

#### *WHAT is the Expertise?*

The Expertise is a mandatory procedure for the protection of environment, a positive conclusion of which is required to obtain the Permit.

The Expertise is used to assess the potential ecological risks of the planned Activity. It ensures that the ecological balance of the environment is maintained through rational nature management, sustainable development, and compliance with environmental norms and standards. Prior to initiating the planned Activity, the Expertise employs a complex evaluation of possible or expected impact on the environment, in view of high public interest in the planned Activity.

#### *WHO is responsible for the Expertise?*

The Department of Environmental Impact Permits under the Ministry organizes and conducts the Expertise. The duration of the Expertise is no less than 10 and no more than 15 days.

#### *HOW is the Expertise performed?*

The Ministry forms an expert commission on a case-by-case basis, i.e. with respect to each application submitted to the Ministry (the "**Commission**"). The Commission is made up of experts from within the Ministry system. However, it may also include independent experts, i.e. an individual with relevant knowledge and experience, who is duly registered with the registry of independent experts under the Ministry and is not a public servant.

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### *THE Expertise Conclusion*

The results of the Expertise are formulated in an Ecological Expertise Conclusion (the "**Conclusion**"). A positive Conclusion is a decisive factor in the process of issuing the Permit.

The Conclusion will be:

<b>Positive, if:</b>	<ol style="list-style-type: none"><li>a. the presented documentation is in compliance with statutory requirements;</li><li>b. the performance of the planned Activity in intended location and under designated circumstances does not result in an irreversible change to the environment and natural resources;</li><li>c. The presented documentation considers the means of mitigating or preventing environmental impact, including the measures of liquidating possible outcome of an emergency.</li></ol>
<b>Negative, if:</b>	<ul style="list-style-type: none"><li>• Based on the comprehensive examination of presented documentation, the planned Activity does not meet the above requirements altogether or their significant part.</li></ul> <p>If the Conclusion is negative, the Ministry refuses to issue a Permit. The Permit Seeker may appeal the negative Conclusion before the courts of Georgia.</p>

*The Conclusion and its terms represent the terms of the Permit, which are legally binding and mandatory to perform. Violation of the terms of the Conclusion (and thus the Permit) will result in pecuniary liability and possible revocation of the Permit (See below).*

The relevant regulations also envisage the possibility of a Permit Seeker to request making an amendment to the Conclusion by presenting a petition to the Ministry. Based on the positive recommendation of the relevant commission, the Ministry refers the issue to the Government of Georgia, which needs to approve such an amendment.

#### **4. STEP 4: ISSUANCE OF THE PERMIT**

Upon the successful perfection of the Expertise (i.e. a positive Conclusion), the Ministry issues a Permit to the Permit Seeker within 20 days from the registration of the application. The state fee for the Permit is GEL 500.

After the issuance of the Permit by the Ministry, the Permit-holder is obliged to:

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- a. Perform Activities in compliance with the terms of the Conclusion;
- b. Implement the measures for mitigating environmental impact;
- c. Implement the measures envisaged in the Report, which are also duly reflected in the Conclusion and/or its terms, etc.

The Permit is not issued (the "**Rejection**") if:

- The Permit and environmental requirements under the laws of Georgia are not met;
- The Conclusion is negative.

Such Rejection may be appealed by the Permit Seeker before a higher administrative body (or official), or the courts of Georgia.

### **IS it possible to assign or transfer the Permit to a third party?**

The Permit-holder is entitled to assign the Permit to any third party. In such case, the Permit-holder and the assignee submit a joint application (together with the required documents), indicating the type of Permit to be assigned and the relevant registration number, to the Ministry. The Ministry considers the application for assignment and issues a renewed Permit, reflecting relevant changes in the registry of Permits.

### **IS there an ongoing control of the compliance with the terms of the Permit?**

The Department of Environmental Supervision under the Ministry (the "**Department**") controls compliance with the terms and conditions of the Permit by the Permit-holder by means of selective examination. The Department is not entitled to examine or request the provision of such factual circumstances, which are not directly related to the performance of the Permit terms by the Permit-holder.

The breach of Permit requirements by the Permit-holder is an administrative violation punishable with a fine in the amount of GEL 5,000. The Department will designate a reasonable period of time for the Permit-holder to eliminate breach of the requirements. However:

- If the Permit-holder fails to eliminate default within the given period, the imposed penalty will be tripled. The Permit-holder will be given additional time to rectify the breach of the terms;
- If the Permit-holder fails to rectify the breach again, the imposed tripled penalty will once again be tripled;
- Finally, if the breach of Permit terms continues, the Permit will be revoked.

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## APPLICABLE LEGISLATION

The issuance of the Permit is mainly regulated by the following:

- Law of Georgia on Environmental Impact Permit;
- Law of Georgia on Ecological Expertise;
- Law of Georgia on Licenses and Permits;
- Order #28 of the Minister of Environment and Natural Resources Protection of Georgia on the Approval of the Rules of the Ecological Expertise, dated 14 May 2013;
- Order #31 of the Minister of Environment and Natural Resources Protection of Georgia on the Approval of the Regulations for Environmental Impact Assessment, dated 15 May 2013;
- Order #38 of the Minister of Environment and Natural Resources Protection of Georgia on the Approval of Procedures for the Special Council for Environmental Impact, dated 3 June 2013;
- Order #38 of the Minister of Environment and Natural Resources Protection of Georgia on the Regulations of the Commission for Amending the Terms of the Ecological Expertise Conclusion, dated 15 June 2011;
- Law of Georgia on License and Permit Fees; and
- Code on Administrative Offences of Georgia.

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