

Approved by
Georgian Government
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**Statute on the Activities of and
Procedure for Discharge of Powers
by the Personal Data Protection Inspector**

**Chapter I
General Provisions**

Article 1. Objective of the Statute

Pursuant to the Law of Georgia on the "Personal Data Protection", this Statute sets forth the procedure for discharge of powers by the Personal Data Protection Inspector (hereinafter the "Inspector") and the key principles and forms of his/her activities.

Article 2. Definition of Terms

Terms used in this Statute are to be interpreted pursuant to the Law of Georgia on the "Personal Data Protection".

Article 3. Key Principles and Tasks of the Inspector's Activities

1. The Inspector is an official responsible for the supervision over implementation regulating the protection of the personal data in Georgia (hereinafter the "Data") and control over the legality of data processing based on the principles of objectivity, impartiality, equality before the law and legality.
2. Key tasks of the Inspector's activities are to:
 - a) Consult the public and private institutions (persons) on matters related to the data protection;
 - b) Consider applications on the data protection;
 - c) Examine (inspect) the lawfulness of the data processing in the public and private institutions;
 - d) Inform the public about the situation on the data protection and important developments related thereto in Georgia.

Article 4. Independence of the Inspector

1. In exercising his/her powers the Inspector shall be independent and shall not be subordinated to any other public official or body.
2. The Inspector shall be guided by the Constitution of Georgia, international agreements, the Law of Georgia on the "Personal Data Protection", other normative acts and this Statute.
3. Any influence or interference with the Inspector's activities shall be prohibited and punished by law.
4. The Inspector shall have the right not to testify concerning the fact confided to him/her as the Inspector. S/he shall preserve this right even after the termination of the term of office.

Article 5. Office of the Inspector

1. The Inspector shall exercise his/her rights and carry out obligations with the support of the Inspector's office (hereinafter the "Office").
2. The Office shall be managed directly by the Inspector or on his/her instructions by the Deputy Inspector, who is appointed to and dismissed from office by the Inspector.
3. The Inspector shall:
 - a) Approve the Statute of the Office determining the structure of the Office and the procedure and terms of distribution of powers among the employees;
 - b) Approve the staff list of the Office and the salaries of the employees;
 - c) Appoint and dismiss the Office employees based on the competition;
 - d) Apply the incentive and disciplinary responsibility measures towards the employees.
4. Paragraph 4 of Article 4 of this Statute shall apply to the Office employees.

Article 6. Financial and Organizational Support to the Activities of the Inspector and the Office

1. Activities of the Inspector and the Office shall be funded from the state budget of Georgia.
2. The Inspector shall submit the draft expenditure plan in accordance with procedure established by law. Allocation of funds required for the activities of the Inspector and the Office shall be defined by a separate code of the state budget of Georgia.
3. Apart from funding received from the state budget, the Inspector shall be entitled to receive grants in accordance with procedure established by law in order to discharge powers prescribed by law.
4. The Inspector shall secure the protection and targeted use of the state property.

Chapter II

Procedure for Discharge of the Inspector's Activities

Article 7. Duties and Powers of the Inspector

1. The Inspector shall be obligated to:
 - a) Upon a respective request, to consult the state authorities and local self-government authorities of Georgia, other public institutions, legal entities of private law and physical persons on any matters related to the data processing and protection;
 - b) Consider the applications of data subjects on the data protection and processing and apply measures stipulated in the Law of Georgia on the "Personal Data Protection";
 - c) Inform the authorized state body in accordance with procedure established by law if s/he identifies the signs of a crime throughout his/her activities.
2. The Inspector shall be authorized to:
 - a) Examine (inspect) the lawfulness of the data processing in the public and private institutions;
 - b) Inform the public about the situation on the data protection and important developments related thereto in Georgia;
 - c) Draft and submit the proposals and conclusions to various public institutions in order to improve the legislation on the data processing;
 - d) Cooperate with other institutions, international organizations and the relevant agencies of other states on the matters related to the data protection;
 - e) Request remedying of breaches of normative acts regulating data processing and the flaws related to the data processing in the form and terms indicated by him/her;

- f) Provide written advise and recommendations to the data processors and the authorized persons in case of minor violations of the data processing rules by them;
- g) Request termination of transfer of the data to another state and international organization, if the data transfer violates the requirements of the Law of Georgia on the "Personal Data Protection";
- h) Request temporary or permanent termination of the data processing, if the measures and procedures applied by the data processors or authorized persons for the safety of the data do not meet the requirements of the legislation;
- i) Request termination of processing, blocking, deletion, destruction or depersonalization of the data, if s/he finds that the data had been processed in contrary to the Law of Georgia on the "Personal Data Protection";
- j) Impose administrative responsibility on the data processor or the authorized person in accordance with procedure established by law;
- k) Based on the law, issue an individual administrative-legal act on matters within his/her competence;
- l) Address courts in cases prescribed by law;
- m) Discharge other powers stipulated by law.

Article 8. Provision of Consultations by the Inspector

1. The data processor and/or the authorized person defined under the Law of Georgia on the "Personal Data Protection" shall be authorized to address the Inspector in writing/electronically for receiving a verbal and/or written consultation on the processing and protection of the data.
2. Consultations provided by the Inspector shall be recommendatory. The data processor and the authorized person shall process the data based on the Law of Georgia on the "Personal Data Protection", independently and under its own responsibility.

Article 9. Form and Registration of Application to be Submitted to the Inspector

1. In case of breach of rights under the Law of Georgia on the "Personal Data Protection", the data subject and/or its authorized representative shall have the right to address the Inspector with an application, in writing or electronically.
2. The application shall include:
 - a) Identity, address and contact information of the data subject and/or its authorized representative;
 - b) Name, address, identification code and/or personal number of the data processor and/or the authorized person, which, in the opinion of the data subject and/or its authorized representative, has breached its rights provided under the Law of Georgia on the "Personal Data Protection";
 - c) Request of the data subject and/or its authorized representative;
 - d) Circumstances that serve as basis for the request of the data subject and/or its authorized representative;
 - e) Date of submission of the application and the signature of the data subject and/or its authorized representative;
 - f) List of documents attached to the application, if any.
3. The application or other document submitted by the data subject and/or its authorized representative shall be drawn up in the Georgian language, while a document drawn up in a foreign language shall be accompanied by a notarially certified translation.
4. The Inspector's Office shall be obligated to register the application on the day of its submission and send (hand over) to the data subject and/or its authorized representative a document confirming the registration of the application.
5. If the application is submitted electronically, the Inspector's Office shall be obligated to register the application in the register of electronic applications and inform the data subject and/or its authorized representative thereon.

6. The Inspector shall determine the form of electronically submitted applications and the procedure for its receipt and registration.

Article 10. Consideration of the Application

1. Within 5 days from registration of the application, the Office shall examine the compliance of the submitted application with the requirements of the Law of Georgia on the "Personal Data Protection" and this Statute.

2. When needed, the Office shall allocate reasonable time to the data subject and/or its authorized representative for the submission of additional information and/or remedying of any other flaw of the application, which shall not be less than 3 days.

3. If the data subject and/or its authorized representative shall not remedy the flaw within the allocated time and/or submit the information referred to in Paragraph 2 of this article, the Inspector shall have the right to leave the application without consideration, and the data subject and/or its authorized representative shall be informed thereof.

4. Within 10 days from the receipt of application of the data subject and/or its authorized representative, the Inspector shall decide on the measures to be applied and inform the data subject and/or its authorized representative thereof.

5. At any stage of consideration of the application, the Inspector shall be authorized to:

a) Request from the data subject and/or its authorized representative the submission of additional documents and explanations required for making a decision;

b) In accordance with procedure established by law, request information required for making a decision from any individual or a legal entity of public and/or private law; as well as from international organizations operating in the Georgian territory, which are subject to the Law of Georgia on the "Personal Data Protection";

c) Schedule and hold an oral examination of the application pursuant to the procedure established under Article 11 of this Statute;

d) Inspect the data processor and/or the authorized person in accordance with the procedure established by the Law of Georgia on the "Personal Data Protection" and this Statute;

e) Apply other measures prescribed by the Law of Georgia on the "Personal Data Protection" and this Statute.

6. Examination of application by the Inspector shall not exceed 2 months. By his/her justified decision, the Inspector shall be authorized to extend the term of examination of application by 1 month the most and inform the data subject and/or its authorized representative thereof.

Article 11. Procedure for Holding an Oral Examination by the Inspector

1. The Inspector or a person authorized by him/her shall open and chair the oral hearing. A secretary of the hearing shall attend the hearing.

2. An oral hearing shall be closed. The chair of the hearing shall be authorized to announce the hearing as open in case all parties to the hearing consent.

3. The data subject and/or its authorized representative, the data processor and/or the authorized person, and when needed, other persons according to the decision of the chair of the hearing, shall be entitled to participate in the oral hearing.

4. The chair of the hearing shall be obligated to inquire into circumstances having relevance to the examined issue and to allow the hearing participants to express their opinions concerning the examined issue.

5. A secretary of the hearing shall draw up the minutes, which shall include:

a) Name and surname of the chair and the content of document certifying his/her authority, if the Inspector does not examine the application;

- b) Time and location of examination;
 - c) Identity of persons participating in the hearing;
 - d) Subject of an oral hearing, brief summary of a submitted application;
 - e) Brief description of opinions of persons participating in the hearing.
6. The chair and secretary of the hearing shall sign the minutes of the hearing.
7. An interested party shall have the right to get familiar with the minutes and submit comments and indicate incorrect or incomplete information in it within 3 days from getting familiar with the minutes. If the Inspector or a person authorized by him/her agrees to the comments, s/he shall confirm its accuracy or make a decision on rejection of a comment.

Article 12. Procedure for Inspection of the Data Processor and Authorized Person by the Inspector

1. The Inspector shall be authorized to inspect any data processor and authorized person at his/her own initiative or application of an interested person.
2. Inspection at the Inspector's own initiative shall imply the planned and unplanned inspection of the data processors and authorized persons by the Inspector.
3. The Inspector shall annually identify the priority fields and the categories of data processors and authorized persons to be subject to a planned inspection in view of the volume and content of the data being processed, number of personnel involved in the data processing and other risks.
4. The Inspector's decision on the unplanned inspection of the data processors and authorized persons may be based on:
- a) Number and/or content of applications submitted with the Inspector concerning the concrete data processor and authorized person;
 - b) Information received from the mass information means or any other sources;
 - c) Application of an interested person prescribed by Paragraph 1 of this article.
5. Carrying out of inspection by the Inspector shall include:
- a) Determination of observance of the data processing principles and existence of lawful grounds of the data processing;
 - b) Examination of compliance of procedures and organizational and technical measures applied for the data protection purposes with the requirements of law;
 - c) Examination of fulfillment of requirements stipulated in the data protection legislation on a catalogue of a filing system, register of the catalogues of filing systems and registration of issue of the data;
 - d) Examination of lawfulness of transfer of the data to another state and international organization;
 - e) Examination of observance of the data protection procedures established by the law.
6. The Inspector shall issue an individual administrative-legal act on inspection of the data processor and/or authorized person, which shall include:
- a) Type of an individual administrative-legal act;
 - b) Title of an individual administrative-legal act;
 - c) Name of an authority issuing an individual administrative-legal act;
 - d) Name/title and identification code/personal number of the data processor and/or authorized person;
 - e) Name, surname, position and personal number of person/s authorized to carry out the inspection;
 - f) Basis, subject and term of the inspection;
 - g) Rights and duties of the data processor and/or authorized person during the inspection;
 - h) Reference to legal consequences of failure to fulfill lawful requests of the Inspector and/or his/her authorized representative;
 - i) Information on the appeal of an individual administrative-legal act in court, by referring to the name and address of the court and the term of appeal;

- j) Registration number granted by the authority, which issued an individual administrative-legal act;
 - k) Time and location of issue of an individual administrative-legal act;
 - l) Name, surname and signature of the Inspector.
7. The Inspector or a person authorized to carry out the inspection shall serve the individual administrative-legal act of the Inspector on carrying out the inspection to the data processor and/or authorized person immediately upon the launch of inspection, apart from exceptions stipulated in Paragraph 8 of this article.
8. The Inspector shall be obligated to inform the institution, whose activities are related to the state security and defense or the operative-search measures, about the planned inspection and its scopes at least 3 days in advance.
9. During the inspection, the Inspector and/or a person authorized to carry out the inspection shall be authorized to:
- a) Request from any institution, physical person and legal entity the documents and information necessary for the inspection purposes;
 - b) Enter any institution and organization, observe the data processing and get familiar with any document and information on spot, regardless of their content and form of storage, apart from exceptions stipulated in Paragraph 8 of this article;
 - c) Request the conduct of expert examination, if need be.
10. Throughout the inspection, the data processor and authorized person shall be obligated to cooperate with the Inspector and/or a person authorized by him/her and to ensure unhindered inspection by them in accordance with procedure established by law.
11. The data processor and authorized person shall be obligated to immediately provide any information and document to the Inspector. If this is impossible due to physical or legal reasons, they can provide the information or document to the Inspector in no later than 15 days from the request.
12. The Inspector, his/her Deputy and the Office employees shall be obligated not to disclose or illegally process otherwise the information that became known to them during the inspection process or as a result of other official activities.
13. During the inspection, a person authorized to carry out the inspection shall draw up and sign the inspection minutes, which shall describe the progress of inspection. Data processor and authorized person shall be obligated to sign the inspection minutes. If they disagree with the content of the inspection minutes and refuse to sign it, the inspection minutes shall indicate the respective grounds of disagreement or refusal.

Article 13. Decision Adopted as a Result of Consideration of Application and/or Inspection of the Data Processor and Authorized Person

1. As a result of completion of examination (inspection) related to consideration of application and/or carried out at his/her own initiative, the Inspector shall adopt one of the following decisions:
- a) Request remedying of breaches of normative acts regulating the data processing and flaws related to the data processing in the form and terms indicated by him/her;
 - b) Instruct the data processor and/or authorized person to submit within reasonable time the measures intended to remedy the data protection situation and the respective action plan;
 - c) Request temporary or permanent termination of the data processing, if the measures and procedures applied by the data processor and/or authorized person for the data security do not meet the requirements of law;
 - d) Request termination of processing, blocking, deletion, destruction or depersonalization of the data, if s/he finds that the data are being processed unlawfully;
 - e) Request termination of transfer of the data to another state and international organization, if the transfer of data violates the requirements of legislation on the data protection;

- f) Provide written advise and recommendations to the data processor and authorized person in case of minor violations of the data processing rules by them;
- g) Impose administrative responsibility and a respective fine on persons defined under the Law of Georgia on the "Personal Data Protection" in the amount and according to the procedure prescribed by the same Law.
2. If the inspection establishes that the data processing meets the requirements of the law, the Inspector shall confirm in writing the legality of data processing by the data processor and/or authorized person.
3. In light of circumstances of a specific case, the Inspector shall be authorized to simultaneously apply two or more measures stipulated in Paragraph 1 of this article.
4. A plan referred to in Sub-Paragraph "b" of Paragraph 1 of this article shall be implemented in agreement with the Inspector.
5. The data processor and authorized person shall be obligated to fulfill the Inspector's requirements within the term allocated by the Inspector and to inform the Inspector thereof.
6. The Inspector's decision shall be mandatory for fulfillment and it can be appealed in court only in accordance with procedure established by law.
7. If the data processor and/or authorized person does not fulfill the Inspector's requirements, the Inspector shall be authorized to address the court.

Article 14. Imposition of Administrative Responsibility

1. If the Inspector or a person authorized by him/her identifies an administrative offence stipulated in Articles 43-54 of the Law of Georgia on the "Personal Data Protection", s/he shall be authorized to draw up a protocol of administrative offence and examine the case in accordance with procedure established under the Code of Administrative Offences of Georgia.
2. The Inspector shall have the right to impose administrative fines stipulated in Articles 43-54 of the Law of Georgia on the "Personal Data Protection".
3. The Inspector shall draw up the form of a protocol of administrative offence.

Chapter III

Article 15. Obligation of Notification

Any person shall be obligated to notify the Inspector about the data processing in cases prescribed by the legislation of Georgia and this Statute.

Article 16. Obligation of Notification on Processing of Biometric

1. If the legislation does not provide otherwise, prior to the use of biometric data, a private person processing the data shall provide to the Inspector detailed information in writing on processing of the biometric data, including the information provided to the data subject, reason behind the data processing, and the guarantees of data protection.
2. If the Inspector finds that processing of biometric data does not comply with the objectives and principles of the Law of Georgia on the "Personal Data Protection", s/he shall inform the data processor thereof in writing, and shall be authorized to request the termination of processing, blocking, deletion, destruction or depersonalization of the data.
3. The data processor shall be obligated to take into consideration the request referred to in Paragraph 2 of this article. Prior to taking into consideration this request, the data processor shall not be authorized to use these data.

4. The data processor can use the biometric data prior to taking into consideration the Inspector's request as well, if this is necessary to protect vital interests of the data subject or a third person. In such case, the data processor shall be obligated to immediately inform the Inspector thereof by a justified application.
5. In case of failure to take into consideration the requests, the Inspector shall be authorized to apply measures prescribed by the legislation on data protection.

Article 17. Obligation of Notifying the Inspector prior to Setting up a Filing System and Entering Information in It

1. Prior to setting up a filing system and entering the new category of data in it, the data processor shall be obligated to provide to the Inspector in writing or electronically the following information:
 - a) Name of a filing system;
 - b) Title/name, surname and address of the data processor and authorized person, a place of storage and/or processing of the data;
 - c) Legal basis of the data processing;
 - d) Category of the data subject;
 - e) Category of the data in a filing system;
 - f) Purpose of the data processing;
 - g) Term of storage of the data;
 - h) Fact and grounds of limiting the right of the data subject;
 - i) The recipient of the data available in the filing system and their categories;
 - j) Information on transfer of the data to another state and international organization and the legal basis of such transfer;
 - k) General description of procedure established for the protection of safety of the data.
2. The data processor shall be obligated to notify the Inspector about amending the information referred to in Paragraph 1 of this article in no later than 30 days from making the amendment.
3. If the Inspector finds that the catalogue of a filing system does not comply with the objectives and principles of effective legislation on the data processing, s/he shall notify the data processor in writing thereof and request to bring the catalogue of a filing system in compliance with the objectives and principles of legislation.
4. The data processor shall be obligated to take into consideration the request referred to in Paragraph 3 of this article and to ensure the compliance of the catalogue of a filing system with the objectives and principles of legislation on the data processing within 20 days from receiving such a request. This term may be extended in agreement with the Inspector by no more than 10 days.
5. If the obligation stipulated in Paragraph 4 of this article is not met, the Inspector shall be authorized to apply measures prescribed by legislation on the data protection.
6. The data processor, number of whose employees does not exceed 20, shall not have to fulfill the obligation stipulated in Paragraph 1 of this article.

Article 18. Obligation of Notification due to Multitude of Recipients of the Data and Disproportionately Large Expenses

1. If it is impossible to provide information on the correction, renewal, addition, blocking, deletion or destruction of data by the data processor to all recipients of the data due to the multitude of recipients of the data and disproportionately large expenses, in light of objectives of Article 22 of the Law of Georgia on the "Personal Data Protection", the data processor shall be obligated to notify the Inspector thereof within 3 days from the emergence of such circumstances.

2. If the Inspector finds that the terms of Paragraph 1 of this article have been violated, s/he shall be authorized to apply measures prescribed by legislation on the data protection.

Article 19. Permit to Transfer Data to Another State and International Organization

1. If the grounds stipulated in the Law of Georgia on the "Personal Data Protection" exist, the data may be transferred to another state or international organization, if:

- a) A respective state or international organization secures adequate guarantees of the data protection;
- b) This is provided in the international treaty and agreement of Georgia;
- c) The data processor secures adequate guarantees for the data protection and the protection of key rights of the data subject based on the agreement between the data processor and the respective state, a physical person or legal entity of such state, or an international organization.

2. Pursuant to Sub-Paragraph "c" of Paragraph 1 of this article, the data may be transferred only based on the Inspector's permit.

3. In case of circumstances referred to in Sub-Paragraph "c" of Paragraph 1 of this article, the data processor shall be obligated to address the Inspector with a written application attached by the agreement and additional documentation in view of the category of the data and/or contents of the agreement. All documents shall be submitted in the Georgian language, while a document drawn up in a foreign language shall be accompanied by a notarially certified translation.

4. The Inspector shall assess the availability of adequate guarantees of the data protection in another state and/or international organization and decide respectively based on the analysis of legislation regulating the data processing and the relevant practice, following which, within 30 days from receiving the application, the Inspector shall decide on granting or rejecting the permit to transfer the data to another state and/or international organization.

Chapter IV

Article 20. Participation of the Inspector in the Law-Making Process

1. The Inspector shall be authorized at his/her own initiative to submit proposals to the Parliament of Georgia and other public institutions aimed at improving the legislation and to draft the conclusions on the bills and other draft normative acts related to the data processing.

2. The Inspector shall be authorized to receive as written, as well as verbal explanations from a representative of the state authority, which drafts a bill or other draft normative act related to the data.

3. To improve the legislation, the Inspector shall be authorized to set up working groups including the representatives of public as well as private institutions and individual persons.

Article 21. Educational Activities of the Inspector

To protect human rights and freedoms including the inviolability of private life, popularize the Law of Georgia on the "Personal Data Protection" and to prevent its breaches, the Inspector shall carry out educational activities concerning the issues of data processing and protection, including through the official web page of the Inspector, seminars and meetings, study trips, invitation of experts and education programs implemented by partnering with the public and private actors.

Article 22. Publicity of Activities of the Inspector

1. The Inspector shall be obligated to draft and publish a report on the situation of the personal data protection in the country until March 1st of each year.

2. The report shall include general assessment, conclusions and recommendations on the data protection situation in the country, and the information on identified important violations and implemented measures throughout the year, as well as the information on legal consultations rendered by the Inspector, considered applications, conducted inspections, drafted conclusions and recommendations and the applied measures.
3. Within 15 calendar days from drafting the official report, the Inspector shall be obligated to submit it to the Government of Georgia and post it publicly on the official web page of the Inspector.

Article 23. Register of the Catalogues of Filing Systems

1. The Inspector shall be obligated to administer a register of the catalogues of filing systems, which shall include the information stipulated in Paragraph 1 of Article 19 of the Law of Georgia on the "Personal Data Protection".
2. The Inspector shall ensure the publicity of register of the catalogues of filing systems and its accessibility through the official web page of the Inspector.