



## **Entrepreneur Code of the Republic of Kazakhstan**

### *Unofficial translation*

The Code of the Republic of Kazakhstan dated October 29, 2015 No. 375-V LRK.

#### *Unofficial translation*

Footnote. Throughout the text, the words “repatriates”, “repatriates”, “repatriate”, and “Repatriates” have been replaced by the words “compatriots”, “compatriots”, and “Compatriots”, respectively, in accordance with the Law of the Republic of Kazakhstan dated 13.05.2020 No. 327-VI (shall be enforced after the date of entry into force of the relevant amendments and additions to the Code of the Republic of Kazakhstan "On Taxes and Other Obligatory Payments to the Budget" (Tax Code)).

Footnote. The table of contents is excluded by Law of the RK No. 48-VII of 08.06.2021 ( shall be enacted on 01.01.2022).

This Code defines the legal, economic and social conditions and guarantees that ensure the free enterprise in the Republic of Kazakhstan, regulates social relations arising from the interaction of business entities and the state, including government regulation and support for entrepreneurship.

## **SECTION 1. GENERAL PROVISIONS Chapter 1. LEGAL PRINCIPLES OF INTERACTION BETWEEN BUSINESS ENTITIES AND STATE**

### **Article 1. Legislation of the Republic of Kazakhstan on entrepreneurship**

1. The legislation of the Republic of Kazakhstan on entrepreneurship is based on the Constitution of the Republic of Kazakhstan and consists of this Code and other regulatory legal acts of the Republic of Kazakhstan.

2. Commodity-money and other property relations based on equality of participants, as well as personal non-property relations connected with property, are regulated by the civil legislation of the Republic of Kazakhstan.

2-1. The provisions of this Code shall not apply to relations related to the return of illegally acquired assets, including the creation and activities of a management company, in accordance with the legislation of the Republic of Kazakhstan on the return of illegally acquired assets to the state.

3. If an international treaty ratified by the Republic of Kazakhstan establishes rules other than those provided for by this Code, then the rules of the international treaty shall apply.

4. In the event of gaps or inconsistencies found between the laws of the Republic of Kazakhstan on entrepreneurship contained in the regulatory legal acts of the Republic of Kazakhstan, the provisions of this Code shall apply to the provisions of this Code.

5. Features of certain types of entrepreneurship are established by the laws of the Republic of Kazakhstan.

**Footnote. Article 1 as amended by the Law of the Republic of Kazakhstan dated 12.07.2023 No.23-VIII (shall be enforced ten calendar days after the date of its first official publication).**

## **Article 2. The concept of entrepreneurship and the limits of its legal regulation**

1. Entrepreneurship is an independent, initiative activities of citizens, oralmans and legal entities aimed at obtaining net income through the use of property, production, sale of goods, performance of work, provision of services, based on the right of private property (private entrepreneurship) or on the right of economic management or operational management of a state enterprise (state entrepreneurship). Entrepreneurial activities are carried out on behalf of, for risk of, and under the property responsibility of an entrepreneur.

2. Entrepreneurial activities may be limited exclusively by the laws of the Republic of Kazakhstan.

3. State bodies are prohibited to adopt regulatory legal acts establishing the privileged position of individual entrepreneurs.

## **Article 3. Objectives and principles of interaction between business entities and the state**

1. The interaction of business entities and the state is aimed at creation of favorable conditions for development of entrepreneurship and society, encouragement of entrepreneurial initiatives in the Republic of Kazakhstan.

2. The principles of interaction between business entities and the state are:

- 1) legality;
- 2) freedom of entrepreneurship;
- 3) equality of entrepreneurs;
- 4) inviolability of property;
- 5) fair competition;
- 6) balance of consumer, business entities and the state interests;
- 7) transparency of the activities of state bodies and the availability of information;
- 8) effectiveness of state regulation of entrepreneurship;
- 9) improvement of the ability of business entities to independently protect their rights and legitimate interests;
- 10) priority of the prevention of wrong;
- 11) presumption of good faith of business entities and mutual responsibility of the state and business entities;
- 12) freedom from corruption;
- 13) promotion of entrepreneurship, ensuring of its protection and support;

- 14) support of domestic manufacturers of goods, works, services;
- 15) inadmissibility of unlawful state interference in the affairs of entrepreneurs;
- 16) participation of private entrepreneurship in lawmaking;
- 17) promotion of social responsibility of entrepreneurship;
- 18) limited participation of the state in entrepreneurial activities;

Subparagraph 19) is put into effect after the enactment of the legislative act on self-regulation in accordance with the Code of the Republic of Kazakhstan dated 29.10.2015 No. 375-V.

- 19) self-regulation.

Footnote. Article 3 as amended by the Law of the Republic of Kazakhstan dated 12.03.2021 No. 15-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

#### **Article 4. Legality**

1. Entrepreneurs in the course of their entrepreneurial activities, state bodies and officials of state bodies in the process of state regulation of entrepreneurship are obliged to comply with the requirements of the Constitution of the Republic of Kazakhstan, this Code and other regulatory legal acts of the Republic of Kazakhstan.

2. Acts and decisions of state bodies contradicting the Constitution of the Republic of Kazakhstan shall be recognized as illegal and invalid from the moment of their adoption and shall be subject to cancellation.

Acts and decisions of state bodies not complying with the regulatory legal acts of the Republic of Kazakhstan in terms of content, design and (or) procedures for their adoption shall be recognized as illegal and invalid and shall be subject to cancellation in the manner established by the laws of the Republic of Kazakhstan, except for cases when the right to trust is protected by the laws of the Republic of Kazakhstan.

Footnote. Article 4 as amended by the Law of the Republic of Kazakhstan dated 29. 06. 2020 No. 351-VI (shall be enforced from 01. 01. 2021).

#### **Article 5. Free enterprise**

1. Everyone has the right to freedom of entrepreneurial activities, free use of own property for any legitimate entrepreneurial activities.

2. Business entities may carry out any types of entrepreneurial activities not prohibited by the laws of the Republic of Kazakhstan.

#### **Article 6. Equality of entrepreneurs**

1. Business entities are equal before the law and the court, regardless of their form of ownership or any other circumstances.

2. Business entities have equal opportunities in the implementation of entrepreneurial activities.

#### **Article 7. Inviolability of property**

1. Inviolability of the property of business entities is guaranteed by law.

2. Business entities may own any legally acquired property.

3. Business entities may not be deprived of their property, except as decided by the court.

The compulsory alienation of property for state needs in exceptional cases provided for by law may be made on condition of equivalent compensation.

#### **Article 8. Fair competition**

1. Activities aimed at restricting or eliminating competition, infringement of the rights and legitimate interests of consumers, and unfair competition are prohibited.

Monopolistic activities are regulated and restricted by law.

2. Antimonopoly regulation is aimed at protection of competition, creation of conditions for the effective functioning of commodity markets, ensuring of the economic space unity, free movement of goods and freedom of economic activities in the Republic of Kazakhstan.

#### **Article 9. Balance of interests of consumers, business entities and the state**

1. Forms and means of state regulation of entrepreneurship are introduced in order to ensure adequate level of security of activities or actions (operations), the most effective protection of consumer rights with the minimum reasonably required load on entrepreneurs.

In public regulation, new requirements on private business entities may only be imposed if the benefits to consumers, to the state, prevail over the costs of public regulation.

2. In the course of state regulation, the state bodies are not may to require from business entities the submission of documents and (or) additional information not provided for by the regulatory legal acts of the Republic of Kazakhstan.

3. Qualification and licensing requirements shall ensure the minimum necessary set of resources, standards and indicators sufficient for business entities to ensure the required level of safety of the activities, operations or security of the facility.

**Footnote. Article 9 as amended by Law of the RK No. 95-VII of 30.12.2021 (shall come into force ten calendar days after the date of its first official publication).**

#### **Article 10. Transparency of government activities and availability of information**

1. The activities of state bodies shall be public and open within the limits established by the laws of the Republic of Kazakhstan.

2. State bodies are obliged to ensure the transparency of their decision-making activities affecting the interests of entrepreneurs.

3. Information held by government agencies and necessary for business entities shall be available if its use is not restricted by the laws of the Republic of Kazakhstan. Such information is provided for free of charge, with the exception of cases established by the laws of the Republic of Kazakhstan.

3-1. Private business entities may have a stamp with their name.

Government agencies and financial institutions are prohibited from requesting stamp on documents from legal entities belonging to private entrepreneurs.

4. All procedures and requirements related to the state regulation of entrepreneurship shall contain a clear sense excluding the divergent interpretation.

5. The provisions of this article, establishing the obligations of state bodies, shall apply to the authorized organization in the field of civil aviation.

**Footnote.** Article 10 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 249-VI dated 04.19.2019 (shall be enforced since 01.08.2019).

#### **Article 11. Efficiency of business regulation by the state**

The efficiency of business public regulation shall be achieved through:

- 1) compliance with the conditions for the formation of regulatory instruments set out in this Code, as well as the implementation of mandatory procedures for justification, approval and monitoring of public regulation;
- 2) increasing the state's confidence in business entities;
- 3) consistency and coherence of public regulation, based on the introduction of project management in the formation of regulatory policy, continuity and consideration of previous decisions of public regulation of business activities;
- 4) introducing personal liability for government officials for causing damage to business entities;
- 5) avoiding the creation of barriers for business entities as a result of the introduction of new requirements.

**Footnote.** Article 11 as reworded by Law of the RK No. 95-VII of 30.12.2021 (shall enter into force ten calendar days after the date of its first official publication).

#### **Article 12. Improvement of the business entities ability to independently protect their rights and legitimate interests**

1. Business entities may deny the inspection by officials of state control and supervision bodies in cases of their failure to comply with the requirements to inspections established by this Code.

2. In order to protect their rights and legitimate interests in the course of state control and supervision, business entities may involve third parties in the inspection.

#### **Article 13. Priority of prevention of wrong**

1. Prevention of offenses and motivation of business entities to comply with the requirements established by the laws of the Republic of Kazakhstan, have priority over the use of measures of state coercion in the process of entrepreneurial activities.

2. Measures of state coercion for an offense committed by an entrepreneur shall fir to its nature and gravity.

#### **Article 14. Presumption of good faith of business entities and mutual responsibility of the state and business entities**

Footnote. The heading of Article 14 is in the wording of the Law of the Republic of Kazakhstan dated 12.03.2021 No. 15-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

1. By issue of a permit, the state confirms that the licensee, the permit holder, provides the second category of minimum safety level in accordance with the objectives of state regulation

2. In the process of state regulation of entrepreneurship, there shall be no obstacles to the implementation of the legitimate activities of business entities by state bodies and their officials.

3. In the process of state regulation of entrepreneurship, when business entities perform their duties or exercise the rights granted to them by the law, it shall be assumed that their actions are in good faith.

A business entity shall also be considered to be in good faith if, in the exercise of rights, legitimate interests and (or) performance of duties, it was guided by an official explanation of the state body given within its competence, enshrined in accordance with the legislation of the Republic of Kazakhstan, including if such an explanation was subsequently withdrawn, recognized as erroneous or a new explanation, different in meaning, was given in relation to the same regulatory legal act, the content of which has not changed.

Losses caused to a business entity as a result of issuance of an act of the state body not complying with the legislation of the Republic of Kazakhstan, as well as by actions (inaction) of officials of these bodies, shall be subject to compensation in the manner prescribed by the civil legislation of the Republic of Kazakhstan.

4. Violation of the legislation of the Republic of Kazakhstan, committed by a business entity, must be described in the course of conducting inspections. Substantiation of arguments and disclosure of circumstances indicating the fact of violation of the legislation of the Republic of Kazakhstan shall be assigned to state bodies.

The factual data presented by business entities on the circumstances investigated by the state body shall be considered reliable until the court or state body establishes the opposite in accordance with the legislation of the Republic of Kazakhstan.

All uncertainties of the legislation of the Republic of Kazakhstan shall be interpreted in favour of a business entity. 5. It is prohibited to use the rights provided for by this Code and other regulatory legal acts in contradiction with their goal with the aim of infringing the rights and legitimate interests of other business entities or evading the performance of existing obligations or legal responsibility for actually committed offenses.

6. The provisions of this article, establishing the obligations of state bodies, shall apply to the authorized organization in the field of civil aviation.

Footnote. Article 14 as amended by Law of the Republic of Kazakhstan No. 249-VI dated 19.04.2019 (shall be enforced since 01.08.2019); dated 12.03.2021 No. 15-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

## **Article 15. Freedom from corruption**

1. When introducing and implementing state regulation of entrepreneurship, the facts of conflict of interests and selective application of law shall be excluded.

2. In order to limit the contacts of business entities with state bodies in the process of state regulation of entrepreneurship, regulations shall include the application of the "single window" principle, in which all necessary approvals from government bodies shall be obtained by state bodies themselves in the form of interagency cooperation.

3. The abuse of official powers by persons authorized to perform state functions and persons equated to them, exercising business regulation, in order to accept property benefits and advantages shall not be allowed.

## **Article 16. Stimulation of entrepreneurial activities and ensuring its protection and support**

1. In order to stimulate the development of entrepreneurs, the state takes a series of measures aimed at creating favorable legal, economic, social conditions and guarantees for the implementation of entrepreneurial initiatives.

2. Stimulation of entrepreneurial activities are carried out, including through ensuring the protection and support of entrepreneurship.

## **Article 17. Support for domestic manufacturers of goods, works, services**

1. Government agencies and other organizations are taking measures to create an enabling environment to stimulate the development of domestic production of goods, works, and services.

2. In developing and examining draft regulatory legal acts, concluding international treaties of the Republic of Kazakhstan and participating in the decision-making of international organizations in order to increase the competitiveness of domestic goods, works, services, the national interests of the Republic of Kazakhstan are taken into account.

## **Article 18. Inadmissibility of unlawful state interference in the affairs of entrepreneurs**

Unlawful interference by the state in the affairs of entrepreneurs, their associations, as well as the aforementioned associations in the affairs of the state and the assignment of functions of state bodies to them are not allowed.

## **Article 19. Participation of private business entities in lawmaking**

Private business entities participate in the development and examination of draft regulatory legal acts, draft international treaties of the Republic of Kazakhstan, as well as international treaties, the Republic of Kazakhstan intends to become a party to, affecting the interests of entrepreneurs, through the National Chamber of business entities of the Republic of Kazakhstan and expert council on private entrepreneurship (further-expert council).

**Footnote. Article 19 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

## **Article 20. Stimulation of social responsibility of entrepreneurship and the development of social entrepreneurship**

Footnote. The heading of Article 20 as amended by the Law of the Republic of Kazakhstan dated 24. 06. 2021 No. 52-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

The state guarantees and encourages the introduction by business entities of social responsibility in their business activities.

Social entrepreneurship development initiatives are supported by state bodies, national holdings, national development institutions and other organizations in accordance with the procedure determined by the authorized body for entrepreneurship.

Footnote. Article 20 as amended by the Law of the Republic of Kazakhstan dated 24. 06. 2021 No. 52-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

### **Article 21. Limited state participation in entrepreneurial activities**

1. The state participates in entrepreneurial activities within the limits limited by this Code and the laws of the Republic of Kazakhstan.

2. In order to develop private entrepreneurship and competition, the state is taking measures aimed at reducing the state's share in entrepreneurial activities by limiting the creation of state legal entities in the sphere of entrepreneurship, legal entities with state participation in the authorized capital.

Article 22 is enacted after the enactment of the law on self-regulation in accordance with the Code of the Republic of Kazakhstan dated 29.10.2015 No. 375-V.

### **Article 22. Self-regulation**

The state shall create conditions for the development of self-regulation in entrepreneurial and professional activities by reducing the scope of public regulation based on the minimum need for it, as well as other incentives determined by the legislation of the Republic of Kazakhstan.

Footnote. Article 22 as amended by Law of the RK No. 95-VII of 30.12.2021 (shall be put into effect ten calendar days after the date of its first official publication).

## **Chapter 2. BUSINESS ENTITIES AND CONDITIONS FOR THEIR FUNCTIONING**

### **Paragraph 1. General provisions on entrepreneurs**

### **Article 23. Entrepreneurs**

1. Business entities are citizens, oralmans and non-state commercial legal entities engaged in entrepreneurial activities (private entrepreneurs), state enterprises (state entrepreneurs).

2. An individual, who is an entrepreneur, shall be registered as an individual entrepreneur in the manner provided for by this Code.

3. A legal entity that is an entrepreneur may be created in the organizational and legal form provided for by the Civil Code of the Republic of Kazakhstan.



## **Article 24. Categories of entrepreneurs**

1. Depending on the average annual number of employees and the average annual income, business entities are divided into the following categories:

- small-sized business entities, including micro-business entities;
- medium-sized business entities;
- large-sized business entities.

2. The assignment of business entities to the categories specified in paragraph 1 of this article is used for the following goals:

- state statistics;
- provision of state support;
- application of other norms of the legislation of the Republic of Kazakhstan.

For state statistics, only the average annual number of employees is used.

For the goal of providing state support and applying other norms of the legislation of the Republic of Kazakhstan, two criteria are used: the average annual number of employees and the average annual income.

For the purposes of providing state support and applying other norms of the legislation of the Republic of Kazakhstan, the average annual number of employees of business entities using the labour of employees of the sending party in accordance with the contract on rendering services for the provision of personnel shall be determined taking into account the employees of the sending party.

The average annual number of employees of business entities is determined taking into account all employees, including employees of branches, representative offices and other separate divisions of this subject, as well as the individual entrepreneur.

The average annual income shall be the sum of total annual income or income of business entities applying a special tax regime based on a patent, a simplified declaration or using a special mobile application, for the last three years, divided by three in accordance with the tax legislation of the Republic of Kazakhstan.

State support programs for private business entities may provide for other criteria.

3. small-sized business entities are individual business entities without formation of a legal entity and legal entities engaged in entrepreneurship, with an average annual number of employees of no more than one hundred people and an average annual income of no more than three hundred thousand times a monthly calculated indicator established by the law on the republican budget and in effect on January 1 of the corresponding financial year.

Micro business entities are small-sized business entities engaged in private entrepreneurship, with an average annual number of employees of no more than fifteen people or an average annual income of no more than thirty thousand times a monthly calculated indicator established by the law on the republican budget and valid on January 1 of the corresponding financial year.

4. For the goals of state support and the application of other norms of the legislation of the Republic of Kazakhstan, small-sized business entities, including micro-business entities, may not be recognized as individual business entities and legal entities carrying out:

- 1) activities related to the traffic of narcotic drugs, psychotropic substances and precursors ;
- 2) production and (or) wholesale of excisable products;
- 3) grain storage operations at grain gaining stations;
- 4) holding of lotteries
- 5) activities in gambling;
- 6) activities related to the traffic of radioactive materials;
- 7) banking (or certain types of banking operations) and activities in the insurance market (except for the activities of an insurance agent);
- 8) auditing activities;
- 9) professional activities in the securities market;
- 10) activities of credit bureaus;
- 11) security activities;
- 12) activities related to the circulation of civilian and service weapons and their ammunition;
- 13) digital mining activity of the I subtype.

Individual business entities and legal entities carrying out the activities specified in this paragraph refer to medium-sized business entities, and in case of meeting the criteria established by clause 6 of this article, to large-sized business entities.

For private entrepreneurs, in accordance with the tax legislation of the Republic of Kazakhstan, who are payers of gambling business tax, a fixed tax and a single land tax, the criterion on the number of employees is used.

5. The medium-sized business entities are individual business entities and legal entities engaged in business, not related to small- and large-sized business entities in accordance with paragraphs 3 and 6 of this article.

6. The large-sized business entities are individual business entities and legal entities that carry out business and meet one or two of the following criteria: the average annual number of employees is more than two hundred fifty people and (or) the average annual income over a three-million times a monthly calculated indicator, established by the law on the republican budget and applicable as of January 1 of the relevant financial year.

**Footnote. Article 24 as amended by the Law of the Republic of Kazakhstan dated 19. 12. 2020 No. 386-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 24. 06. 2021 No. 52-VII (shall be enforced from 01.01.2022); dated 06.02.2023 No. 194-VII (shall be enforced from 01.04.2023).**

**Article 25. Register of entrepreneurs**

1. In order to use data on the categories of entrepreneurs, the authorized business agency keeps a register of entrepreneurs.

2. The register of business entities is an electronic database containing information on the categories of entrepreneurs.

3. Information on the category of business entities is provided for in the form of an electronic certificate to interested parties, including government agencies, for use in their work.

4. Excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication).

Footnote. Article 25 as amended by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

#### **Article 25-1. Register of business partners**

1. The National Chamber of Entrepreneurs of the Republic of Kazakhstan shall create and maintain a register of business partners for the provision of business entities and other persons with information about the reliability and good faith of business partners,

2. The register of business partners shall be an information system integrated with the objects of informatization of state bodies and organizations, containing information about business entities that do not constitute a secret protected by laws.

Collection, processing and protection of personal data of business entities contained in the register of business partners shall be carried out in accordance with the legislation of the Republic of Kazakhstan on personal data and their protection.

3. State bodies and organizations shall ensure the integration of informatization objects with the register of business partners.

The procedure for integrating the objects of informatization of state bodies and organizations with the register of business partners is determined by the legislation of the Republic of Kazakhstan on informatization.

4. Excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication).

Footnote. The Law is supplemented by Article 25-1 in accordance with the Law of the Republic of Kazakhstan dated 02.01.2021 No. 399-VI (shall be enforced from 01.07.2021); as amended by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

#### **Article 26. Rights of entrepreneurs**

1. Private business entities are may to:

1) carry out any types of entrepreneurial activities, to have freedom of access to the markets for goods, works and services, unless otherwise provided for by the laws of the Republic of Kazakhstan;

- 2) carry out entrepreneurship using hired labor in accordance with the laws of the Republic of Kazakhstan;
  - 3) create branches and representative offices in the manner prescribed by the laws of the Republic of Kazakhstan;
  - 4) independently set prices for manufactured goods, works, services, with the exception of cases established by this Code and the laws of the Republic of Kazakhstan;
  - 5) independently monitor the quality of goods, works and services;
  - 6) carry out foreign economic activities within their legal capacity;
  - 7) establish associations of business entities and participate in them;
  - 8) participate in the work of expert councils through accredited associations of private entrepreneurship entities, the National Chamber of business entities of the Republic of Kazakhstan;
  - 9) apply to law enforcement and other government agencies on matters of bringing to justice those who violated the rights and (or) prevented the realization of the legitimate interests of entrepreneurs;
  - 10) apply to the court, arbitration, the Commissioner for the protection of the rights of business entities of Kazakhstan and other bodies to protect their rights and legitimate interests ;
  - 11) settle the dispute through conciliation procedures;
  - 12) submit for consideration to the authorized body on entrepreneurship proposals on the elimination of the causes and conditions conducive to the non-execution or inadequate execution of regulatory legal acts on the support and protection of entrepreneurship;
  - 13) participate in the implementation of projects in the social, economic and environmental fields as measures of the social responsibility of entrepreneurship;
  - 14) exercise other rights not limited by the laws of the Republic of Kazakhstan.
2. State enterprises shall exercise the rights provided for by this Code, with due regard to their specifics established by the laws of the Republic of Kazakhstan.

### **Article 27. Obligations of entrepreneurs**

Business entities are obliged to:

- 1) comply with the legislation of the Republic of Kazakhstan, the rights and legitimate interests of individuals and legal entities;
- 2) ensure the safety and quality of goods, works, services in accordance with the requirements of the legislation of the Republic of Kazakhstan;
- 3) provide consumers with goods, works, services complete and accurate information about goods, works, services;
- 3-1) ensure the use of a current bank account intended for business activities when accepting non-cash payments into a bank account for the sale of goods, performance of work or rendering of services;

4) obtain permits or send notifications to start an activities or action (operation) in accordance with the Law of the Republic of Kazakhstan “On Permits and Notifications”;

5) carry out compulsory insurance of civil liability in cases stipulated by the laws of the Republic of Kazakhstan;

6) preserve nature and to treat natural resources with care;

7) increase the efficiency of use of natural and energy resources and their management in the process of carrying out activities;

8) perform other obligations provided for by this Code and other laws of the Republic of Kazakhstan.

**Footnote. Article 27 as amended by Law of the RK No. 100 of 31.12.2021 (shall be enacted on 01.03.2022).**

### **Article 28. Protection of information constituting a trade secret**

1. Protection of a trade secret consists in prohibiting the unlawful receipt, dissemination or use of information constituting a trade secret in accordance with this Code and the legislation of the Republic of Kazakhstan.

2. A entrepreneur shall determine the circle of persons who have the right of free access to information constituting a trade secret, and shall take measures to protect its confidentiality.

3. The procedure for classifying information as access categories, conditions for storing and using information constituting a trade secret, are determined by the entrepreneur.

4. Measures taken by an entrepreneur to protect information constituting a trade secret may include:

1) determining the list of information constituting a trade secret;

2) restricting access to trade secrets by establishing a procedure for handling this information and monitoring compliance with such a procedure;

3) records of persons who have obtained access to a trade secret, and (or) persons to whom this information has been provided for or transmitted.

5. Persons who illegally obtained, disclosed and (or) used information constituting a trade secret are obliged to compensate for the damage caused in accordance with the civil legislation of the Republic of Kazakhstan.

6. An entrepreneur or a person authorized by it has the right to demand from its employees a non-disclosure subscription of information constituting a trade secret, and those who carry out its verification shall be warned of liability in accordance with the laws of the Republic of Kazakhstan.

7. The list of information subject to mandatory publication or mandatory notification to the shareholders of the joint stock company, participants of the economic partnership, members of the production cooperative or other specified circle of persons is established by the laws of the Republic of Kazakhstan and the constituent documents of the entrepreneur.

8. Information constituting a trade secret may not be disclosed without the consent of the entrepreneur, with the exception of information on which there is a valid court decision, or other cases established by this Code.

9. State bodies and their officials without the consent of the entrepreneur shall not have the right to distribute and (or) use information that is known to them due to the fulfillment of official (official) obligations, which is a trade secret, except as required by the laws of the Republic of Kazakhstan.

10. An entrepreneur has the right not to provide public authorities and officials in the performance of registration, control and supervisory functions and other actions access to information constituting a trade secret, other than that necessary for the implementation of their functions.

10-1. An entrepreneur that owns, on the right of ownership or other legal basis, a critically important object of information and communication infrastructure, transfers a backup copy of an electronic information resource to a single backup platform for storing electronic information resources in the manner specified by the legislation of the Republic of Kazakhstan, subject to the requirements of the legislation of the Republic of Kazakhstan on national security.

10-2. The subject of the quasi-public sector transmits to the operator of the information and communication infrastructure of the "electronic government" the depersonalized data necessary for data analytics in order for the state bodies to carry out activities in accordance with the data management requirements approved by the authorized data management body.

11. State bodies and their officials bear the responsibility established by the laws of the Republic of Kazakhstan for the illegal distribution and (or) use of information constituting a trade secret, and the damage caused to an entrepreneur as a result of such distribution and (or) use is subject to compensation in accordance with civil the legislation of the Republic of Kazakhstan.

12. Generalized information that does not disclose information about the activities of a particular entrepreneur is publicly available.

13. Publicly available information of the entrepreneur includes:

1) last name, first name and patronymic (if it is indicated in the identity document) or the name of the individual entrepreneur;

2) name and date of registration of the legal entity;

3) identification number;

4) legal address (location);

5) kind of activities;

6) surname, name, patronymic (if it is indicated in the identity document) of the manager;

7) information on public procurement and procurement by quasi-public sector entities, except for entities within the National Bank of Kazakhstan and legal entities, fifty percent or more of voting shares (stakes in the charter capital) wherein belong to the National Bank of

Kazakhstan or are in its trust management, including details on plans, announcements, participants, outcomes, contracts entered into, performance of contractual obligations and payments, as well as information on local content, excluding details constituting state secrets in keeping with the legislation of Kazakhstan on state secrets and (or) containing official information of limited distribution as determined by the Government of the Republic of Kazakhstan.

**Footnote. Article 28 as amended by the Law of the Republic of Kazakhstan dated 28.12.2017 No. 128-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 25.06. 2020 No. 347-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 72-VII of 15.11.2021 (shall take effect on 01.01.2022); dated 14.07.2022 No. 141-VII (shall be enforced ten calendar days after the date of its first official publication).**

### **Article 29. Primary statistical and administrative data**

1. Primary statistical data is submitted by business entities in accordance with the legislation of the Republic of Kazakhstan in state statistics.

The use of primary statistical data by state bodies and the National Bank of the Republic of Kazakhstan in relation to an entrepreneur, including in the exercise of their control and supervisory functions, is not allowed.

2. Forms designed for the collection of administrative data, as well as methods for calculating indicators, shall be coordinated with the authorized body in state statistics in the manner established by the legislation of the Republic of Kazakhstan.

### **Paragraph 2. Individual entrepreneurs**

### **Article 30. The concept and types of individual entrepreneurship**

1. Individual entrepreneurship is an independent, initiative activities of citizens of the Republic of Kazakhstan, oralmans, aimed at obtaining net income, based on the property of individuals themselves and carried out on behalf of individuals, for their risk and under their property liability.

Other individuals are prohibited from individual entrepreneurship.

2. Individual entrepreneurship is carried out in the form of personal or joint entrepreneurship.

### **Article 31. Personal entrepreneurship**

1. Personal entrepreneurship is carried out by one individual independently on the basis of property belonging to him by right of ownership, as well as by virtue of another right allowing use and (or) disposal of property.

2. For the implementation of personal entrepreneurship by an individual married, the consent of the spouse is not required.

3. In cases when an individual uses the common property of spouses to carry out personal entrepreneurship, a notarized consent of the other spouse is required for such use, unless

otherwise provided for by law or the marriage contract or other agreement between the spouses.

4. Personal entrepreneurship can be carried out using the form of a farm.

### **Article 32. Joint entrepreneurship**

1. Joint entrepreneurship is carried out by a group of individuals (individual entrepreneurs) on the basis of property belonging to them on the basis of common property, as well as by virtue of another right allowing for joint use and (or) disposal of property.

2. In a joint entrepreneurship, all transactions related to private entrepreneurship are made, and rights and obligations are acquired and carried out on behalf of all participants in the joint entrepreneurship.

3. Forms of joint entrepreneurship are as follows:

1) spouse entrepreneurship, carried out on the basis of the common joint property of the spouses;

2) family entrepreneurship, carried out on the basis of common joint ownership of a peasant farm or common joint ownership of privatized housing;

3) simple partnership in which private entrepreneurship is carried out on the basis of common shared ownership;

4) other forms in accordance with the laws of the Republic of Kazakhstan.

4. When spouses do business in the business turnover on behalf of the spouses, one of the spouses acts with the consent of the other spouse, which can be confirmed during the registration of an individual entrepreneur or expressed in writing and notarized in cases where the activities of the individual entrepreneur is carried out without state registration.

If one of the spouses does not give his/her consent for the performance of the other spouse in the business turnover on their behalf, it is assumed that the spouse acting in the business circulation performs individual entrepreneurship in the form of personal entrepreneurship.

5. Individual entrepreneurship using the simple partnership form is carried out in accordance with the civil legislation of the Republic of Kazakhstan.

### **Article 33. Implementation of the activities of individual entrepreneurs under their own names**

1. The individual entrepreneur is engaged in entrepreneurial activities, acquires and exercises rights and obligations under his/her own name.

2. If the citizen is an oralman, he/she, when making transactions related to his entrepreneurship activities, shall indicate that he/she acts as an individual entrepreneur.

3. The absence of such indication does not relieve the individual entrepreneur from the risk and responsibility that the individual entrepreneur bears in his obligations.

4. In carrying out his/her activities, an individual entrepreneur has the right to use personal forms of business documentation, stamps, seal, the texts of which must clearly indicate that this person is an individual entrepreneur.

### **Article 34. Social protection of an individual entrepreneur**



An individual entrepreneur has the right to use the system of social and pension provision, social insurance in accordance with the legislation of the Republic of Kazakhstan on social protection.

**Footnote. Article 34 as amended by the Law of the Republic of Kazakhstan dated 20.04.2023 No. 226-VII (shall be enforced from 01.07.2023).**

### **Article 35. State registration of individual entrepreneurs**

1. The state registration of individuals engaged in private entrepreneurship without forming a legal entity consists in registration as an individual entrepreneur in the state revenue body at the location declared during state registration as an individual entrepreneur.

2. Individuals are subject to obligatory state registration as an individual entrepreneur if they meet one of the following conditions:

- 1) use the work of employees on a permanent basis;
- 2) they gain annual income from private entrepreneurship calculated in accordance with the tax legislation of the Republic of Kazakhstan in the amount exceeding the 12-times minimum wage established by the law on the republican budget and valid as of January 1 of the corresponding financial year.

3. An individual who does not use employees on a permanent basis may work without registration as an individual entrepreneur in the cases of gaining the following incomes established by the Code of the Republic of Kazakhstan "On taxes and other obligatory payments to the budget" (Tax Code):

- 1) income subject to taxation at the source of payment;
- 2) property income;
- 3) income from sources outside the Republic of Kazakhstan;
- 4) incomes of domestic workers in accordance with the labor legislation of the Republic of Kazakhstan, gaining income from persons other than tax agents;
- 5) incomes of citizens of the Republic of Kazakhstan under labor contracts (contracts) and (or) contracts of a civil law nature, concluded with representative offices of a foreign state and consular institutions of a foreign state accredited in the Republic of Kazakhstan other than tax agents;
- 6) incomes of citizens of the Republic of Kazakhstan under labor agreements (contracts) and (or) civil law contracts concluded with international and state organizations, foreign and Kazakhstan non-governmental public organizations and foundations exempted from the obligation to calculate, withhold and transfer individual income tax at the source of payment in accordance with international treaties ratified by the Republic of Kazakhstan;
- 7) incomes of resident labor immigrants received (to be received) under employment contracts concluded in accordance with the labor legislation of the Republic of Kazakhstan on the basis of a permit issued to a labor immigrant;

8) income of mediators, with the exception of professional mediators in accordance with the Law of the Republic of Kazakhstan "On Mediation", received from persons other than tax agents;

9) income from a private subsidiary farm, recorded in the household account book in accordance with the legislation of the Republic of Kazakhstan, subject to taxation, for which personal income tax was not withheld at the source of payment due to false information submitted by the individual subsidiary farm to the tax agent.

For the goals of applying this clause, the tax agent is a person defined by the tax legislation of the Republic of Kazakhstan.

4. It was valid until 01.01.2024 in accordance with the Law of the Republic of Kazakhstan dated 26.12.2018 No. 203-VI.

Footnote. Article 35 as amended by the Law of the Republic of Kazakhstan dated 25.12.2017 No. 122-VI (shall be enforced from 01.01.2018); as amended by the Law of the Republic of Kazakhstan No. 203-VI dated 26.12.2018 (for the procedure of entry into force, see Article 2.

#### **Article 36. The procedure for state registration of individual entrepreneurs**

1. For state registration as an individual entrepreneur (joint individual entrepreneurship), an individual (an authorized person of joint individual entrepreneurship) submits a notification through the state information system of permits and notifications or through other informatization objects in the form approved by the authorized body in the field of permits and notifications.

In case of registration of joint individual entrepreneurship, an authorized representative of joint individual entrepreneurship provides a power of attorney signed on behalf of all participants of the joint entrepreneurship.

If the applicant has not reached the age of majority, the consent of the legal representatives is attached to the notice, and in the absence of such consent, a copy of the marriage certificate (marriage) or the decision of the guardianship or custody or court decision declaring the minor fully capable.

Reclamation of other documents is prohibited.

2. Persons included in the list of organizations and persons associated with financing the proliferation of weapons of mass destruction, and (or) in the list of organizations and persons associated with financing terrorism and extremism shall not be entitled to submit a notification in accordance with the legislation of the Republic of Kazakhstan.

3. The state revenue body shall, within one working day from the date on which the individual submits the documents specified in paragraph 1 of this article, except for the cases when notifications are submitted by the persons specified in paragraph 2 of this article, shall register the individual entrepreneur (joint individual entrepreneurship).

4. When the information specified in the notification is amended, the individual entrepreneur (an authorized representative of the joint individual entrepreneurship) is obliged

to report such amendments to the state revenue authority in the form established by this authority.

5. The notification is submitted in electronic form via the web portal of the "electronic government" or other informatization objects.

**Footnote.** Article 36 as amended by the Law of the Republic of Kazakhstan dated 29.03.2016 No. 479-V (shall be enforced from 01.01.2017); as amended by the Law of the Republic of Kazakhstan dated 25.12.2017 No. 122-VI (shall be enforced from 01.01.2018); dated 13.05.2020 No. 325-VI (shall be enforced upon expiry of six months after the date of its first official publication); dated 14.07.2022 No. 141-VII (shall be enforced ten calendar days after the date of its first official publication).

### **Article 37. Certificate of state registration of an individual entrepreneur**

**Footnote.** Article 37 is excluded by the Law of the Republic of Kazakhstan dated 29.03.2016 No. 479-V (shall be enforced from 01.01.2017).

### **Article 38. Termination of the activities of an individual entrepreneur**

1. The activities of an individual entrepreneur may be terminated voluntarily or by force, as well as in the event of the occurrence of the circumstances provided for by this Code.

On a voluntary basis, the activities of an individual entrepreneur is terminated at any time on the basis of a decision taken independently by an individual entrepreneur in personal entrepreneurship, by all participants jointly in joint entrepreneurship. In this case, the individual entrepreneur submits to the state revenue authority a statement on the termination of entrepreneurial activities.

For voluntary termination of activities, an individual entrepreneur shall submit to the state revenue authority a statement on the termination of entrepreneurial activities.

The decision to terminate the joint entrepreneurship is considered adopted if at least half of its participants voted for it, unless otherwise provided for by agreement between them.

2. By compulsory procedure, the activities of an individual entrepreneur is terminated by a court decision in the following cases:

1) is excluded by Law of the Republic of Kazakhstan No. 290-VI dated December 27, 2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication);

2) recognition of the registration of an individual entrepreneur as invalid in connection with the violations of the legislation of the Republic of Kazakhstan admitted during registration, which are intractable in nature;

3) carrying out activities with repeated violations of the legislation of the Republic of Kazakhstan during a calendar year or gross violations;

4) declaring him/her dead;

5) including it in the list of organizations and persons associated with financing the proliferation of weapons of mass destruction, and (or) in the list of organizations and persons

associated with financing terrorism and extremism, in accordance with the legislation of the Republic of Kazakhstan;

6) recognition of his/her missing;

7) established by the Code of the Republic of Kazakhstan "On taxes and other obligatory payments to the budget" (Tax Code), providing for the termination of activities under compulsion.

3. The activities of the individual entrepreneur, in addition to the grounds provided for in this article, is also terminated in the following cases:

1) personal entrepreneurship in the recognition of an individual entrepreneur as incapable, partially capable, or his/her death;

2) family entrepreneurship and simple partnership, if as a result of the occurrence of the circumstances listed in subparagraph 1) of this paragraph, there is only one or no participant in the joint entrepreneurship, as well as in the division of property in connection with the dissolution of the marriage;

3) established by the tax legislation of the Republic of Kazakhstan, providing for the termination of activities in a simplified manner;

4) the entry into legal force of a court ruling on the completion of the bankruptcy procedure in relation to an individual entrepreneur declared bankrupt by a court decision.

4. The activities of an individual entrepreneur is deemed to be terminated from the moment of his removal from the register as an individual entrepreneur in the state revenue body on the basis of his application or decision of the court that entered into legal force, as well as in the cases established by paragraph 3 of this article.

An individual entrepreneur is deemed to be de-registered as an individual entrepreneur in the registering authority from the date of posting this information on the Internet resource of the authorized body that manages the provision of tax revenues and other mandatory payments to the budget.

5. When carrying out individual entrepreneurship without registration in established cases, it shall be considered terminated from the date of its actual termination on a voluntary basis or , respectively, from the date the court decision comes into force - under compulsory procedure.

6. For small business entities that do not have unfulfilled obligations and are classified by state bodies as entities with low and medium risk, the laws of the Republic of Kazakhstan establish a simplified procedure for reorganization and voluntary liquidation.

**Footnote. Article 38 as amended by the Law of the Republic of Kazakhstan dated 25.12.2017 No. 122-VI (shall be enforced from 01.01.2018); No. 290-VI dated December 27, 2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 13.05.2020 No. 325-VI (shall be enforced upon expiry of six months after the date of its first official publication); dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

### **Article 39. Bankruptcy of an individual entrepreneur**

The bankruptcy procedure of an individual entrepreneur is carried out in the manner prescribed by the legislation of the Republic of Kazakhstan on rehabilitation and bankruptcy.

### **Article 40. Recovery of debts of individual business entities on their property**

1. Individual business entities shall be liable for their obligations with all their property, with the exception of property for which a penalty cannot be levied in accordance with the laws of the Republic of Kazakhstan.

2. When carrying out personal entrepreneurship, an individual shall be liable with all his/her property, including shares in the common property of spouses, with the exception of property for which recovery cannot be turned in accordance with the laws of the Republic of Kazakhstan.

### **Article 41. Definition and forms of farm**

1. A farm is a labor association of persons in which the implementation of individual entrepreneurship is inextricably linked with the use of agricultural land for the production of agricultural products, as well as the processing and marketing of these products.

2. A farm may have the form of:

1) peasant economy, in which business activities are carried out in the form of family entrepreneurship, based on the basis of common joint ownership;

2) a farm based on the implementation of personal entrepreneurship;

3) a farm organized in the form of a simple partnership on the basis of common share ownership on the basis of a joint activities agreement.

### **Article 42. Head and members of a farm**

1. The head of a farm can be a capable citizen of the Republic of Kazakhstan, an oralman who has reached eighteen years of age.

2. The members of a farm are spouses, close relatives (parents (parent), children, adoptive parents (adopters), adopted children, full and half siblings, grandparents, grandmothers, grandchildren) and others who jointly keep the household.

### **Article 43. Rights and obligations of the head and members of the farm**

1. The head of a farm has the right to:

1) represent the interests of the farm in relations with individuals and legal entities;

2) carry out civil law transactions not prohibited by the laws of the Republic of Kazakhstan;

3) authorize any of the members of the farm to perform their functions in the event of a long absence;

4) determine the main activities of the farm;

5) approve internal rules, procedures for their adoption and other documents regulating the internal activities of a farm;

6) submit for consideration by the general meeting of members of a farm enterprise the question of the participation of a farm enterprise in the creation and activities of legal entities;

7) exercise other rights provided for by this Code and the laws of the Republic of Kazakhstan.

2. The head of a farm is obliged:

- 1) to organize the maintenance of records and statements of farm enterprises;
- 2) to implement, within its competence, decisions of the general meeting of members of a farm economy that do not contradict the legislation of the Republic of Kazakhstan;
- 3) to create working conditions for members of the farm;
- 4) when accepting employees, conclude labor contracts, issue acts of the employer in accordance with the labor legislation of the Republic of Kazakhstan;
- 5) to perform other obligations provided for by this Code and the laws of the Republic of Kazakhstan.

3. Members of a peasant or farm have the right to:

- 1) voluntarily withdraw from a farm in the manner determined by the general meeting of members of the farm;
- 2) receive information on the activities of a farm enterprise, including familiarizing themselves with the accounting data, financial statements and other documentation of this farm;
- 3) appeal to the general meeting of members of a farm and (or) to state bodies with complaints of unlawful actions (inaction) of the head and other members;
- 4) appeal in court the decisions of the head and the general meeting of members of a farm in case of violation of their rights and legitimate interests;
- 5) exercise other rights stipulated by this Code and the laws of the Republic of Kazakhstan.

4. Members of a farm are obliged:

- 1) to implement the decisions of the general meeting of members of a farm;
- 2) to comply with the requirements of the internal documents of the farm;
- 3) in the event of a change of the head of a farm, by a general statement, notify the authorities that registered the farm;
- 4) to perform other obligations provided for by this Code and the laws of the Republic of Kazakhstan.

#### **Article 44. Peculiarities of the creation of a farm**

1. A farm is created on a voluntary basis and is considered to be created from the moment of state registration of the right to a land plot, and in cases established by the laws of the Republic of Kazakhstan, after being registered as an individual entrepreneur.

2. Excluded by the Law of the Republic of Kazakhstan dated 25.12.2017 No. 122-VI (shall be enforced from 01.01.2018).

Footnote. Article 44 as amended by the Law of the Republic of Kazakhstan dated 25.12.2017 No. 122-VI (shall be enforced from 01.01.2018).

#### **Article 45. Farm as a form of economic activities**

1. A farm enterprise is an equal production unit of agriculture in the Republic of Kazakhstan.

2. A farm independently determines the area of its activities, the structure and volume of production, grows, processes and sells its products, as well as solves other issues related to the management of the farm.

3. In carrying out its activities, a farm has the right to:

1) open bank accounts and manage its money;

2) receive loans secured by property, land and land use rights in the manner and on the terms established by the legislation of the Republic of Kazakhstan;

3) insure rented and own production facilities, as well as crops (plantings) of agricultural crops, perennial plantings, manufactured products, raw materials, materials in case of death or damage in accordance with the legislation of the Republic of Kazakhstan on insurance and insurance activities;

4) on a voluntary basis, to unite in cooperatives, societies and other associations, participate in the activities of cooperative, economic partnerships and other organizations, as well as at their own discretion, withdraw from any organization.

#### **Article 46. Property of a farm**

1. The property of a farm is owned by its members by the right of joint ownership, unless otherwise established by an agreement between them.

The property of the farm, organized in the form of a simple partnership on the basis of a joint venture agreement, belongs to its members by right of joint ownership.

The property of the farm, based on personal entrepreneurship, belongs to him on the right of private property.

2. Members of a peasant or a private farm may own land plots, plantings on a land plot, including plantings of a private forest fund, wild animals bred and kept in captivity and (or) semi-free conditions, plant genetic resources, household outbuildings and other buildings, reclamation and other structures, productive and working cattle, poultry, agricultural and other machinery and equipment, vehicles, inventory and other property, transferred by members of a peasant or a private farm and (or) acquired for the farm with the common funds of its members.

3. Fruits, products and income derived from activities of a farm are common joint or common share property of members of a farm and are used by agreement between them.

4. Property relations of members of a farm are governed by the relevant rules of civil and land legislation of the Republic of Kazakhstan.

5. Property and the right to a land plot of a farm are inherited in the manner prescribed by the laws of the Republic of Kazakhstan.

**Footnote. Article 46 as amended by the Law of the Republic of Kazakhstan dated 02.01.2023 No. 184-VII (shall be enforced sixty calendar days after the date of its first official publication).**

#### **Article 47. The provision of land for the farm management**

The conditions, procedure for the provision and use of land for the farm management are established by the Land Code of the Republic of Kazakhstan.

#### **Article 48. Conditions of activities of a farm**

1. The farm covers its expenses with the income received.
2. Production, commercial and other relations of a farm are carried out on a contractual basis.
3. Citizens working under an employment contract and (or) a contract on rendering services for the provision of personnel may be involved in the performance of work in a peasant or farm enterprise.
4. The procedure for concluding an employment contract in a peasant or farm enterprise, as well as a contract on rendering services for the provision of personnel shall be determined by the labor and civil legislation of the Republic of Kazakhstan.
5. Members of a peasant or farm enterprise and citizens working in the enterprise under an employment contract, as well as under the contract on rendering services for the provision of personnel shall enjoy all the rights provided for by the laws of the Republic of Kazakhstan.
6. Peasant and private farms have the right to use the system of social and pension provision, social insurance in accordance with the legislation of the Republic of Kazakhstan on social protection.

**Footnote. Article 48 as amended by the Law of the Republic of Kazakhstan dated 19. 12. 2020 No. 386-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 20.04.2023 No. 226-VII (shall be enforced from 01.07.2023).**

#### **Article 49. Termination of the activities of a farm**

1. The activities of a farm is terminated if there is not a single member of the farm, a heir or another person willing to continue the farm's activities, as well as in cases of bankruptcy and termination of the right to private ownership of a land plot or land use rights.
2. When ceasing the activities of a farm, the division of joint estate between the participants of joint ownership, as well as the separation of the share of one of them may be carried out, provided for that the share of each participant in the right to the common property is determined in advance.
3. Property in joint ownership may be divided between its participants by agreement between them.
4. The conditions and procedure for the division of property, land and land use rights in case of termination of the activities of a farm are governed by the civil legislation of the Republic of Kazakhstan.

#### **Paragraph 3. Entrepreneurship of legal entities**

#### **Article 50. Entrepreneurship of non-state legal entities**



1. Entrepreneurship of non-state legal entities may be carried out by creating commercial legal entities pursuing the extraction of income as the main goal of their activities.
2. The organizational and legal forms of non-state commercial legal entities can only be a business partnership, a joint-stock company and a production cooperative.
3. A non-profit organization may engage in entrepreneurial activities only insofar as it corresponds to its statutory goals.

#### **Article 51. Entrepreneurship of state enterprises**

1. In order to solve social and economic problems determined by the needs of society and the state, the state creates state enterprises based on the following rights of:

- 1) economic management;
- 2) operational management (state-owned enterprises).

2. A state enterprise on the right of economic management is a commercial organization endowed with state property on the right of economic management and liable for its obligations with all property belonging to it.

3. The state-owned enterprise is a commercial organization endowed with state property on the right of operational management.

#### **Article 52. State registration of legal entities related to entrepreneurs, and accounting registration of their branches and representative offices**

1. Legal entities established on the territory of the Republic of Kazakhstan and related to business entities are subject to state registration, regardless of the goal of their creation, the nature and nature of their activities, and the composition of participants (members).

2. Branches and representative offices of legal entities that are business entities located in the territory of the Republic of Kazakhstan shall be subject to registration without acquiring the rights of a legal entity.

3. State registration of legal entities related to business entities, and record registration of their branches and representative offices shall be provided by the State Corporation "Government for Citizens" (registering authority), with the exception of cases provided by the legislative acts of the Republic of Kazakhstan.

4. State registration (re-registration) of business entities - legal entities is carried out in accordance with the legislation of the Republic of Kazakhstan on state registration of legal entities and accounting registration of branches and representative offices.

**Footnote. Article 52 as amended by the Law of the Republic of Kazakhstan No. 241-VI dated 02.04.2019 (shall be enforced from 01.07.2019).**

#### **Article 53. Reorganization and liquidation of a legal entity that is an entrepreneur**

1. Reorganization and liquidation of a legal entity that is an entrepreneur is carried out in accordance with the Civil Code of the Republic of Kazakhstan, taking into account the features established by this Code and the laws of the Republic of Kazakhstan.

2. An entrepreneur shall be declared bankrupt by a court decision on the basis of the application of the debtor or creditor to the court, and in cases provided for by the laws of the Republic of Kazakhstan, and other persons.

3. The procedure for the rehabilitation and bankruptcy of a legal entity is carried out in the manner prescribed by the legislation of the Republic of Kazakhstan on rehabilitation and bankruptcy.

### **Chapter 3. ASSOCIATION OF BUSINESS ENTITIES AND CONDITIONS OF THEIR FUNCTIONING**

#### **Article 54. Associations of entrepreneurs**

1. An association of business entities is an association (union) created by business entities in order to coordinate their entrepreneurial activities, as well as to represent and protect the common interests of entrepreneurs.

2. Financing of associations of business entities is provided for by voluntary membership fees of business entities and other sources not prohibited by the laws of the Republic of Kazakhstan.

#### **Article 55. Basics of the activities of associations of entrepreneurs**

The activities of entrepreneurial associations are based on:

- 1) equality of all entrepreneurs;
- 2) prevention decisions that do not correspond to the main directions of domestic and foreign policy of the state;
- 3) independence, which does not allow the restriction of lawfully carried out activities of associations of entrepreneurs;
- 4) transparency of activities, accountability, responsibility to its members;
- 5) efficiency, consistency and rapidness in decision making and its implementation.

#### **Article 56. National chamber of entrepreneurs of the Republic of Kazakhstan, its goals and objectives**

1. The National Chamber of entrepreneurs of the Republic of Kazakhstan (hereinafter - the National Chamber) is a non-profit organization, which is a union of business entities established to ensure favorable legal, economic and social conditions for the implementation of entrepreneurial initiatives and the development of mutually beneficial partnership between the business community and government bodies of the Republic of Kazakhstan, as well as encouragement and support for the activities of associations of individual business entities and (or) legal entities in the form of an association (union) (hereinafter - the association (union)).

2. The goal of the creation of the National Chamber is to form an institutional framework for the growth and further development of entrepreneurship in the Republic of Kazakhstan.

3. The National Chamber goals are the following:

- 1) consolidation of the business community;

- 2) representation, maintenance and protection of the rights and legitimate interests of entrepreneurs;
- 3) the organization of effective interaction between business entities and their associations (unions) with government bodies;
- 4) assistance to the creation of favorable legal, economic and social conditions for the implementation of entrepreneurial initiatives in the Republic of Kazakhstan;
- 5) participation in the process of improving the legislation of the Republic of Kazakhstan, affecting the interests of entrepreneurship;
- 6) other objectives stipulated by the laws of the Republic of Kazakhstan.

#### **Article 57. The National Chamber frame**

1. To be recognized by the National Chamber as conforming with the established criteria for representing the interests of business entities in the governing bodies and working bodies of the National Chamber the associations (unions) shall be accredited.

2. The system of the National Chamber includes:

1) at the republican level:

National Chamber;

republican inter-sectoral, industry associations (unions) accredited to the National Chamber, as well as republican associations (unions) of small, medium and (or) large-sized business entities;

2) at the territorial level:

chambers of business entities of oblasts, cities of republican status and the capital ( hereinafter - regional chambers);

regional inter-sectoral, regional sectoral associations (unions) accredited in regional chambers, as well as regional associations (unions) of small, medium and (or) large-sized business entities;

accredited in regional chambers regional, cities of regional, republican status and the capital of the association (unions);

regional associations accredited in regional chambers, cities of regional status associations (unions);

3) at the city and district levels:

branches of regional chambers in the regions of the respective oblasts, cities of oblast, cities of republican status and the capital, as well as in the towns of oblast and regional status;

4) legal entities with the participation of the National Chamber as a founder, established to implement the objectives of the Law of the Republic of Kazakhstan "On the National Chamber of business entities of the Republic of Kazakhstan";

5) branches and representative offices of the National Chamber located in a foreign country;

6) Commissioner for protection of the rights of business entities of Kazakhstan.

#### **Article 58. Principles of activities of the National Chamber**

1. The activities of the National Chamber are based on the principles of:
  - 1) independence;
  - 2) equality of all entrepreneurs;
  - 3) making decisions that do not contradict the main directions of domestic and foreign policy of the state;
  - 4) transparency of activities, accountability, responsibility to its members;
  - 5) efficiency, consistency and rapidness in decision making and its implementation;
  - 6) the development of intersectoral, sectoral and regional associations (unions);
  - 7) social responsibility of entrepreneurship;
  - 8) contributing to ensuring the safety of goods, works and services for human life and health and the environment produced by manufacturers of goods, works and services;
  - 9) ensuring a balance of interests of society and entrepreneurship.

**Paragraph 2 is put into effect after the enactment of the law on self-regulation in accordance with the Code of the Republic of Kazakhstan dated 29.10.2015 No. 375-V.**

2. The National Chamber is formed according to the principle of compulsory membership of business entities registered in it (record registration) in accordance with the legislation of the Republic of Kazakhstan, with the exception of business entities for which the legislation of the Republic of Kazakhstan establishes mandatory membership in other non-profit organizations, as well as state enterprises, unless otherwise specified by this clause.

The business entities that are members (participants) of self-regulating organizations in the business sphere based on mandatory membership are subject to the principle of mandatory membership of business entities in the National Chamber.

#### **Article 59. Members of the National Chamber**

1. The members of the National Chamber are the entrepreneurs, unless otherwise established by this Code and the Law of the Republic of Kazakhstan "On the National Chamber of business entities of the Republic of Kazakhstan".

2. Members of the National Chamber may:

- 1) enjoy professional support and protection from the National Chamber, as well as the services provided for by its charter;

- 2) elect and be elected to its governing bodies;

- 3) apply to the National Chamber with written inquiries and receive motivated answers within the limits of the powers granted to the National Chamber, make suggestions for improving the organization of its activities;

- 4) participate in the management of the National Chamber in the manner prescribed by the Law of the Republic of Kazakhstan "On the National Chamber of business entities of the Republic of Kazakhstan" and the charter of the National Chamber;

- 5) undergo training, retraining and advanced training organized by the National Chamber;

- 6) receive qualified information and analytical support, including the services of independent experts of various profiles;

7) hear reports on the activities of the National Chamber in the manner prescribed by its charter;

8) enjoy other rights provided for by the laws of the Republic of Kazakhstan.

3. Members of the National Chamber are required to pay mandatory membership fees.

4. Members of the National Chamber are equal in their rights.

5. The National Chamber shall not have the right to interfere in the activities of entrepreneurs, to violate their rights and legitimate interests.

6. Settlement of disputes is carried out in the manner prescribed by the legislation of the Republic of Kazakhstan.

### **Article 60. Competence of the National Chamber**

The National Chamber performs the functions stipulated by this Code, the Law of the Republic of Kazakhstan "On the National Chamber of business of the Republic of Kazakhstan" and other laws of the Republic of Kazakhstan.

### **Article 61. Interaction with the Government of the Republic of Kazakhstan, government bodies**

1. The maximum amounts of mandatory membership fees are determined by the authorized body for entrepreneurship.

2. The interaction of the Government of the Republic of Kazakhstan and the National Chamber is aimed at achieving the goal of its creation and objectives.

3. The interaction of the National Chamber with the Government of the Republic of Kazakhstan and government bodies is carried out in the manner prescribed by this Code and other regulatory legal acts, in the form of:

1) participation of the National Chamber in the development and examination of draft regulatory acts affecting the interests of private entrepreneurs;

2) participation of the National Chamber in the development and examination of international treaties to which the Republic of Kazakhstan intends to become a party, as well as draft international treaties of the Republic of Kazakhstan affecting the interests of private entrepreneurs;

3) creation by the National Chamber of consultative and advisory bodies with the participation of central and local government bodies;

4) participation of the National Chamber in the work of the consultative and advisory bodies under the central and local government bodies established on matters affecting the rights and obligations of entrepreneurs;

5) forms aimed at the realization of the goal of creation, objectives and functions of the National Chamber.

4. State bodies are obliged, in accordance with the procedure provided for by the legislation of the Republic of Kazakhstan, to provide, at the request of the National Chamber,

information affecting the rights and obligations of entrepreneurs of the Republic of Kazakhstan, with the exception of information constituting commercial, banking and other secrets protected by law.

**Footnote.** Article 61 as amended by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 62 is put in force after the enactment of the self-regulation legislative act in accordance with the Code of the Republic of Kazakhstan dated 29.10.2015 No. 375-V.

#### **Article 62. Introduction of self-regulation and its types**

In order to create favorable legal and economic conditions in the areas of entrepreneurial and professional activities, self-regulation shall be introduced based on voluntary and compulsory membership (participation) in self-regulating organizations in accordance with the laws of the Republic of Kazakhstan.

For self-regulation based on compulsory membership (participation) in a business or professional activity to be introduced, the following conditions must be met beforehand:

1) the regulatory authority in the particular field and the persons concerned must first carry out a regulatory impact assessment procedure in conformity with Article 83 of this Code ;

2) the operation of self-regulatory organisations based on voluntary membership (participation) and (or) other non-profit organisations with compulsory membership of business or professional entities, excluding the National Chamber of Entrepreneurs of the Republic of Kazakhstan, in the area where self-regulation based on compulsory membership (participation) to be implemented.

**Footnote.** Article 62 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 95-VII of 30.12.2021 (shall be put into effect ten calendar days after the date of its first official publication).

## **SECTION 2. INTERACTION BETWEEN BUSINESS ENTITIES AND THE STATE Chapter 4. Participation of business entities in rule-making**

### **Article 63. Accreditation of associations of private entrepreneurs**

**Footnote.** Article 63 is excluded by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

### **Article 64. Expert council**

1. The Expert Council is a consultative and advisory body established under the central state and local executive bodies to organize work on:

developing proposals for improving the activities of state bodies in order to support and protect entrepreneurship, including the elimination of administrative barriers;

developing proposals for improving the legislation of the Republic of Kazakhstan, affecting the interests of entrepreneurship;

obtaining expert opinions from members of expert councils on draft normative legal acts, draft international treaties of the Republic of Kazakhstan, as well as international treaties, to which the Republic of Kazakhstan intends to become a member, affecting the interests of business.

2. The expert councils shall include representatives of the National Chamber, self-regulatory bodies, associations of private businesses and other non-profit organisations, public authorities.

Expert council meetings are held as needed.

3. Associations of private business entities and other non-commercial organizations attain the status of members of the expert council only from the moment of their accreditation with the central state or local executive body.

4. The procedure for accreditation, including the form of the certificate of accreditation, the grounds and procedure for revoking the accreditation of associations of private business entities and other non-profit organizations, is determined by the authorized body for entrepreneurship.

Certificate of accreditation is issued for a period of three years.

Associations of private business entities accredited more than two times in a row at central state and (or) local executive bodies receive a certificate of accreditation on an unlimited basis.

5. Representatives of members of the expert council, whose powers are confirmed by a power of attorney, take part in the meetings of the expert council.

The composition of expert councils at the central state and local executive bodies is approved by decisions of the heads of these bodies.

6. Draft regulatory legal acts containing state secrets are not subject to review by the expert council.

7. Consideration of the draft regulatory legal act, draft international treaty of the Republic of Kazakhstan, as well as the international treaty to which the Republic of Kazakhstan intends to become a member, is carried out by the members of the expert council without holding a meeting by promptly sending a notice to the members of the expert council of the advisory council of the corresponding project open regulatory legal acts.

The meeting of the expert council is held on the initiative of the members of the expert council. The agenda is considered in the presence of at least two thirds of its members.

At the same time, meetings of the expert council is held by directly convening members of the expert council or by holding videoconferencing or an online conference in real time.

8. For consideration by the expert council, any issue affecting the interests of private entrepreneurship can be submitted if this issue falls within the competence of the relevant central state or local executive body.

9. Excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication).

Footnote. Article 64 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); by the amendment introduced by the Law of the Republic of Kazakhstan dated 12.03.2021 No. 15-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication; No. 95-VII of 30.12.2021 (shall be brought into force ten calendar days after the date of its first official publication); dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

#### **Article 65. Features of the development and adoption of regulatory legal acts affecting the interests of business entities**

The development and adoption of regulatory legal acts affecting the interests of business entities shall be carried out in accordance with this Code and the Law of the Republic of Kazakhstan "On Legal Acts".

Footnote. Article 65 is in the wording of the Law of the Republic of Kazakhstan dated 12.03.2021 No. 15-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication)

#### **Article 66. Expert opinions on the concepts of draft laws, draft regulatory legal acts affecting the interests of entrepreneurs**

Footnote. Article 66 is excluded by the Law of the Republic of Kazakhstan dated 12.03.2021 No. 15-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

#### **Article 67. Publication (distribution) of a draft regulatory legal act affecting the interests of business entities in the media**

Footnote. Article 67 is excluded by the Law of the Republic of Kazakhstan dated 12.03.2021 No. 15-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

#### **Article 68. Procedure for the enactment of a regulatory legal act affecting the interests of entrepreneurs**

Footnote. Article 68 is excluded by the Law of the Republic of Kazakhstan dated 12.03.2021 No. 15-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

#### **Article 69 Features of the conclusion of international treaties affecting the interests of private business entities**

When developing the drafts of international treaties of the Republic of Kazakhstan, as well as international treaties, to which the Republic of Kazakhstan intends to become a party, affecting the interests of private business entities, the procedure provided for by this Code and Article 19 of the Law of the Republic of Kazakhstan "On Legal Acts" shall be applied.



Footnote. Article 69 is in the wording of the Law of the Republic of Kazakhstan dated 12.03. 2021 No. 15-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

## **Chapter 5. PUBLIC PRIVATE PARTNERSHIP**

### **Article 70. Definition of public private partnership**

Public private partnership is a form of cooperation between a public partner and a private partner, corresponding to the following features:

1) building a relationship between a public partner and a private partner by entering into a public private partnership agreement;

2) medium-term or long-term period for implementation of a public-private partnership project (from five to thirty years, depending on the specifics of the public-private partnership project);

3) joint participation of a public partner and a private partner in the implementation of a public private partnership project;

4) pooling the resources of a public partner and a private partner for the implementation of a public private partnership project.

4-1) availability of investment and operational periods in the public-private partnership project.

The investment period includes design (if necessary), construction and (or) reconstruction, and (or) modernization or creation of a public-private partnership facility. The operational period includes the operation of the public-private partnership facility in accordance with its functional purpose, or maintenance, or management of the infrastructure of the public-private partnership facility;

5) carrying out investments for implementation of a public-private partnership project by a private partner.

Footnote. Article 70 as amended by the Law of the Republic of Kazakhstan dated 02.01.2021 No. 399-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 30.12.2022 No. 177-VII (shall be enforced ten calendar days after the date of its first official publication).

### **Article 71. Participants of public private partnership**

The participants of a public private partnership are the public partner and the private partner, as well as other persons participating in the implementation of the public private partnership project, as provided for by the Law of the Republic of Kazakhstan "On Public Private Partnership".

### **Article 72. Objects of public-private partnership**

The objects of public-private partnership are buildings, structures and (or) equipment, property complexes, the results of intellectual creative activity that are being created (

including being built and, if necessary, designed) and (or) reconstructed and (or) modernized, as well as operated within the framework of the public-private partnership project.

**Footnote. Article 72 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2022 No. 177-VII (shall be enforced ten calendar days after the date of its first official publication).**

### **Article 73. Main objectives and principles of public private partnership**

1. The main objectives of public private partnerships are:

1) creation of conditions for effective interaction between the public partner and the private partner in order to ensure sustainable socio-economic development of the Republic of Kazakhstan;

2) attracting investments to the state economy by pooling the resources of a public partner and a private partner for the development of infrastructure and life support systems of the population;

3) increasing the level of availability and quality of goods, works and services, taking into account the interests and needs of the population, as well as other interested parties;

4) increasing the overall innovation activities in the Republic of Kazakhstan, including the promotion of the development of high-tech and knowledge-intensive industries.

2. The principles of public private partnership are:

1) the principle of consistency - the phased construction of relations between the participants of public private partnership;

2) the principle of competitiveness - the definition of a private partner on a competitive basis, with the exception of cases established by the Law of the Republic of Kazakhstan "On public private partnership";

3) the principle of balance - a mutually beneficial distribution of obligations, guarantees, risks and revenues between a public partner and a private partner in the process of implementing a public private partnership project;

4) the principle of effectiveness - the establishment of criteria and indicators to assess the achievement of the results of public private partnerships;

4-1) the principle of transparency and accessibility of information – open access to information on the processes of planning and implementation of public-private partnership projects within the limits established by the laws of the Republic of Kazakhstan;

5) the principle of value for the population is to ensure the development of social infrastructure and life support systems for the population, increasing the level of availability and quality of goods, works and services, as well as creating jobs as part of implementation of a public-private partnership project.

**Footnote. Article 73 as amended by the Law of the Republic of Kazakhstan dated 02.01.2021 No. 399-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 30.12.2022 No. 177-VII (shall be enforced ten calendar days after the date of its first official publication).**

## **Article 74. The scope of public private partnership and methods for its implementation**

1. Public private partnership is carried out in all sectors (fields) of the economy. At the same time, the objects, the list of which is determined by the Government of the Republic of Kazakhstan, cannot be transferred for the implementation of a public private partnership.

2. Public private partnership in the method of implementation is divided into institutional and contractual.

3. An institutional public private partnership is implemented by a public private partnership company in accordance with a public private partnership agreement.

4. In other cases, public private partnership is carried out according to the method of contractual public private partnership.

A contractual public private partnership is implemented through the conclusion of a public private partnership agreement, including in the following forms:

- 1) concessions;
- 2) trust management of state property;
- 3) property rental (lease) of state property;
- 4) leasing;
- 5) contracts concluded for the development of technology, prototyping, pilot testing and small-scale production;
- 6) life cycle contract;
- 7) service contract;
- 8) other contracts corresponding to the features of public private partnership.

**Footnote. Article 74 as amended by the Law of the Republic of Kazakhstan dated 03.07.2017 No. 86-VI (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Chapter 6. SOCIAL RESPONSIBILITY OF ENTREPRENEURSHIP**

### **Article 75. General provisions of the entrepreneurship social responsibility**

1. The social responsibility of entrepreneurship is the voluntary contribution of business entities to the development of social, environmental and other areas.

2. The state creates conditions for the social responsibility of entrepreneurship in the Republic of Kazakhstan.

3. No one has the right to force business entities to carry out social responsibility activities

Unlawful state interference in the affairs of business entities in the implementation of charity is not allowed.

4. Business entities in their activities can introduce social responsibility of entrepreneurship in the areas of employment and labor relations, environmental protection and other areas.

Social responsibility of entrepreneurship can be carried out by business entities through charity and in other forms not prohibited by the legislation of the Republic of Kazakhstan.

**Article 76. Social responsibility of entrepreneurship in employment and labor relations**

1. Social responsibility of entrepreneurship is based on the protection of the rights of workers of business entities provided for by the legislation of the Republic of Kazakhstan and shall be aimed at developing partnerships between the entrepreneur and his/her employees in solving social issues and regulating working conditions.

2. The main directions in employment and labor relations of entrepreneurship are preservation of working places, the improvement of working conditions, provision of safe working conditions and observance of the norms of social protection of workers, as well as approval of internal policies.

3. Business entities are involved in the implementation of the policy of social partnership and collective relations in the labor area in accordance with the labor legislation of the Republic of Kazakhstan.

**Article 77. Social responsibility of entrepreneurship in the environmental area**

1. Business entities shall ensure careful and rational attitude to the environment.

2. The social responsibility of entrepreneurship in the environmental area is implemented through the voluntary performance of the following objectives:

- 1) financing of programs and activities in environmental protection and improvement of streets, parks and other public places;
- 2) approval of the internal policy in environmental protection;
- 3) solution of other issues aimed at improving the state of the environment.

**Article 78. State guarantees of business entities in the implementation of charity**

1. Protection of the rights and legitimate interests of entrepreneurs-charity participants is guaranteed and supported by the state.

2. The state stimulates the charity of business entities by establishing and awarding state awards to business entities engaged in such activities that have made a significant contribution to the development of charity in the manner determined by the President of the Republic of Kazakhstan, as well as honorary titles in the manner determined by the authorized body in the field of charity.

3. Business entities engaged in charity are may to tax benefits in accordance with the Code of the Republic of Kazakhstan "On taxes and other obligatory payments to the budget" ( Tax Code).

4. Officials of state bodies that impede the realization of the rights of business entities to implement charity and receive charitable assistance by individuals and legal entities shall be liable in accordance with the laws of the Republic of Kazakhstan.

**Footnote. Article 78 as amended by the Law of the Republic of Kazakhstan dated 03.07.2017 No. 86-VI (shall be enforced upon expiry of ten calendar days after its first**

official publication); dated 04.07.2022 No. 134-VII (shall be enforced sixty calendar days after the date of its first official publication).

### **Article 79. The interaction between the state and business entities engaged in charity**

1. The state shall ensure the observance of the rights and legitimate interests of entrepreneurs, as well as their associations engaged in charity.

2. Entrepreneurs, as well as their associations engaged in charity, can cooperate and interact with state bodies, local executive bodies, enter into agreements with them, and also perform certain works on the basis of contracts stipulated by the laws of the Republic of Kazakhstan.

3. The norms of this Code do not apply to the mechanism for attracting, evaluating, monitoring and using related and unrelated grants that cannot be used for philanthropic goals.

### **Chapter 6-1. Social entrepreneurship**

Footnote. Section 2 is supplemented by chapter 6-1 in accordance with the Law of the Republic of Kazakhstan dated 24. 06. 2021 No. 52-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

#### **Article 79-1. Social entrepreneurship**

Social entrepreneurship is the entrepreneurial activity of social entrepreneurship entities that contributes to the solution of social problems of citizens and society, carried out in accordance with the conditions provided for in Article 79-3 of this Code.

The subjects of social entrepreneurship shall be individual entrepreneurs and legal entities (with the exception of large business entities) included in the register of social entrepreneurship entities.

#### **Article 79-2. The main tasks of social entrepreneurship**

The main tasks of social entrepreneurship shall be:

1) ensuring the participation of business entities in solving social problems, including through the introduction of social innovations and assistance in the provision of social services provided for in Article 79-3 of this Code.

For the purposes of this Code, social innovations shall be understood as new ideas, strategies, technologies that contribute to the solution of socially significant tasks causing social changes in the society;

2) assistance in providing employment to socially vulnerable segments of the population specified in Article 79-3 of this Code, and creating equal opportunities for them with other citizens to participate in socially useful activities;

3) promotion of manufactured goods, works performed, services provided by social entrepreneurship entities to the market, including through personal labor participation of socially vulnerable segments of the population specified in Article 79-3 of this Code.

#### **Article 79-3. Categories of social entrepreneurship entities**

Entities of social entrepreneurship shall be divided into the following categories depending on the compliance with one or more of conditions listed in this Article:

1) the first category - the entity of social entrepreneurship contributes to the employment of the following categories of citizens, provided that, according to the results of the previous calendar year, the average annual number of persons belonging to any of these categories (one or more such categories), among the employees of social entrepreneurship entity is at least fifty percent (but not less than two persons belonging to such categories), and the share of labor costs of persons belonging to any of these categories (one or more such categories) in labor costs is at least twenty-five percent (the social status of the employee shall be established at the time of conclusion of an employment contract):

persons with disabilities;

parents and other legal representatives raising a child with a disability;

pensioners and citizens of pre-retirement age (within five years before reaching the age that gives the right to pension payments by age);

pupils of children's villages and graduates of orphanages, boarding schools for orphans and children left without parental care - under the age of twenty-nine;

persons released from serving a sentence from institutions of the penitentiary (penal) system - within twelve months after release;

persons without a fixed place of residence;

parents and other legal representatives belonging to low-income, large or single-parent families, as well as mothers of large families, awarded with pendants "Altyn alka", "Kumis alka" or previously received the title of "Mother-Heroine", as well as awarded with the orders "Mother's Glory" of the I and II degree;

persons who have undergone medical and social rehabilitation of narcological patients or treatment from the dependence on psychoactive substances – within twelve months after the rehabilitation or treatment;

compatriots;

2) the second category - the entity of social entrepreneurship contributes to the sale of goods produced, works performed, services rendered by the citizens from among the categories specified in subparagraph 1) of this Article. At the same time, the share of income from the implementation of such activities (types of such activities) following the results of the previous calendar year should be at least fifty percent of the total income of a social entrepreneurship entity, and the share of net income received by a social entrepreneurship entity for the previous calendar year, aimed at the implementation of such activities (types of such activities) in the current calendar year, is not less than fifty percent of the amount of the specified income (if there is net income for the previous calendar year);

3) the third category – the subject of social entrepreneurship carries out activities for production of goods, performance of works, provision of services intended for persons with disabilities, in order to create conditions for them to overcome or compensate for the

limitations of their life, as well as those intended for other persons specified in subparagraph 1) of this article, in order to create equal opportunities with other citizens for participation in socially useful activities provided, that the share of income from such activities (types of such activities) according to the results of the previous calendar year is at least fifty percent of the total income of the subject of social entrepreneurship, and the share of net income received by the subject of social entrepreneurship for the previous calendar year, aimed at the implementation of such activities (types of such activities) in the current calendar year, is not less than fifty percent of the amount of the specified income (if there is net income for the previous calendar year) in accordance with the following activities:

- for the provision of social and household services aimed at maintaining life in everyday life;

- for the provision of social and medical services aimed at maintaining and preserving health through the organization of care, providing assistance in the implementation of recreational activities, systematic monitoring to identify changes in the state of health of citizens;

- for the provision of socio-psychological services, providing assistance in the correction of psychological state for adaptation in the social environment;

- for the provision of socio-pedagogical services aimed at preventing deviations in behavior ;

- for rendering social and labor services aimed at providing assistance in finding employment and solving other problems related to labor adaptation;

- for rendering services providing for the increase in communication potential, rehabilitation and social adaptation, social support services;

- production and (or) sale of medical equipment, prosthetic and orthopedic products, software in the field of digital healthcare, as well as technical means that can be used exclusively for prevention of diseases, rehabilitation of persons with disabilities, including medical rehabilitation of children with disabilities;

- organization of recreation and health improvement of persons with disabilities and pensioners;

- on the implementation of educational programs of additional training;

- creation of conditions for persons with disabilities and low-mobility groups of the population to ensure access to social, transport and recreational infrastructure, the use of vehicles, provision of universal communication services when providing information;

4) the fourth category - the entity of social entrepreneurship carries out its activity on the condition that the share of income from the implementation of such activities (types of such activities) following the results of the previous calendar year shall be at least fifty percent of the total income of the social entrepreneurship entity, and the share of the net income received by the social entrepreneurship entity income for the previous calendar year, aimed at the implementation of such activities (types of such activities) in the current calendar year shall be

at least fifty percent of the amount of the specified income (in the event of a net income for the previous calendar year) from among the following types of activities:

for the provision of psychological, pedagogical and other services aimed at strengthening the family, ensuring family upbringing of children and supporting motherhood and childhood;

for the organization of recreation and health improvement of children;

for the implementation of general education curricula for preschool education and training, primary, basic secondary, general secondary education, educational programs for technical and vocational education;

for the provision of psychological and pedagogical support to the children with disabilities, medical and social assistance to students and pupils who experience difficulties in mastering the curricula of basic secondary and general secondary education, development and social adaptation;

on training employees and volunteers (volunteers) of socially oriented non-commercial organizations aimed at improving the quality of services provided by such organizations;

cultural and educational (including the activities of private museums, theaters, libraries, archives, studio schools, creative workshops, botanical and zoological gardens, houses of culture, houses of folk art);

on environmental protection;

for the provision of geriatric and gerontological assistance, organization of health and longevity centers, and activities to maintain a healthy lifestyle to socially vulnerable segments of the population specified in Article 79-3 of this Code.

**Footnote. Article 79-3 as amended by the Law of the Republic of Kazakhstan dated 27.06.2022 No. 129-VII (shall be enforced ten calendar days after the date of its first official publication)**

#### **Article 79-4. Register of social entrepreneurship entities**

1. The authorized body for entrepreneurship shall maintain a register of social entrepreneurship entities for the use of data on the categories of social entrepreneurship entities.

The register of social entrepreneurship entities shall be an electronic database containing information about individual entrepreneurs and legal entities that are subjects of social entrepreneurship, namely:

1) the name of an individual entrepreneur or the name and date of registration of a legal entity;

2) an identification number;

3) a legal address (location);

4) the date of entry in the register of social entrepreneurship entities;

5) the category of a social entrepreneurship entity.



The authorized body for entrepreneurship shall approve the register of social entrepreneurship entities no later than February 1 of the current year as of December 31 of the previous calendar year.

The specified information shall be updated annually by the authorized body for entrepreneurship as of December 31 of the previous calendar year for compliance with the conditions provided for in Article 79-3 of this Code, taking into account the information provided by local executive bodies of regions, cities of republican significance and the capital city following the results of consideration by a special commission.

If an individual entrepreneur or a legal entity meet the conditions provided for in Article 79-3 of this Code, the authorized body for entrepreneurship shall have the right to enter new subjects of social entrepreneurship in the register on the 1st day of the calendar quarter on the basis of information submitted to the authorized body for entrepreneurship by local executive bodies of regions, cities of republican significance and the capital city, following the results of consideration by a special commission.

The special commission includes representatives of state bodies, the National Chamber of Entrepreneurs, public associations and trade unions.

2. The authorized body for entrepreneurship shall place the register of social entrepreneurship entities on its Internet resource.

3. The rules for maintaining the register of social entrepreneurship entities are approved by the authorized body for entrepreneurship.

**Footnote. Article 79-4 as amended by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).**

## **Chapter 7. STATE REGULATION OF ENTREPRENEURSHIP**

### **Article 80. Goals, objectives, and limits of business regulation by the state**

1. The objectives of business regulation by the state shall include ensuring the safety of goods, works and services produced and sold by business entities for life and health of people, protection of their legitimate interests, safety for the environment, national security of the Republic of Kazakhstan, protection of property interests of the state and creation of favourable conditions for business development that stimulates the growth of the country's economy.

2. The objectives of business regulation by the state shall include:

- 1) protecting human life and health and the environment;
- 2) establishing a regulatory environment that encourages investment in the national economy and a favourable ecosystem for innovation;
- 3) creating conditions for the development of fair competition;
- 4) encouraging fair, ethical business conduct based on the business reputation of entrepreneurs;

5) promoting self-regulation;

6) consumer protection.

3. Business regulation by the state shall be implemented through regulatory instruments and be based on the establishment by the state of requirements that must be met by business entities at the level of:

1) the Laws of the Republic of Kazakhstan;

2) the normative legal decrees of the President of the Republic of Kazakhstan;

3) the normative legal decrees of the Government of the Republic of Kazakhstan;

4) the regulatory legal orders from ministers of the Republic of Kazakhstan and other heads of central state bodies and their departments;

5) the regulatory legal acts of the National Bank of the Republic of Kazakhstan and the competent authority for regulation, control and supervision of the financial market and financial organisations;

6) the regulatory legal decisions of maslikhats, regulatory legal decisions of akims, and regulatory legal decisions of akimats;

7) other documents containing mandatory requirements in compliance with the legislation of the Republic of Kazakhstan.

4. The effect of this Chapter shall not apply to state regulation of entrepreneurship in the field of financial legislation of the Republic of Kazakhstan, activities of financial organizations, branches of non-resident banks of the Republic of Kazakhstan, branches of non-resident insurance (reinsurance) organizations of the Republic of Kazakhstan, branches of non-resident insurance brokers of the Republic of Kazakhstan and persons being part of insurance groups and banking conglomerates, to draft regulatory legal acts of the National Bank of the Republic of Kazakhstan and the authorized body for regulation, control and supervision of the financial market and financial organizations, as well as to draft regulatory legal acts of the authorized body exercising management in tax revenues assurance and other obligatory payments to the budget, currency regulation issues.

**Footnote. Article 80 - as reworded by Law of the RK No. 95-VII of 30.12.2021 (shall be enacted ten calendar days after the date of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 12.07.2023 No.23-VIII (shall be enforced from 01.01.2024).**

#### **Article 81. Forms and means of business regulation by the state**

1. Businesses shall be regulated by the state in the form of:

1) state registration of business entities;

2) technical regulation;

3) price and tariff regulation by the state;

4) compulsory insurance of civil liability of business entities in obedience to the laws of the Republic of Kazakhstan;

5) protection of competition and restriction of monopolistic activities;  
6) other forms of business regulation by the state established by the laws of the Republic of Kazakhstan.

2. The following regulatory instruments shall be the means of enforcing the requirements that are binding on business entities:

1) permissive or notification procedure for undertaking certain activities or actions (operations) by business entities);

2) state control and supervision;

3) establishment of the liability of business entities by the laws of the Republic of Kazakhstan;

4) information tools;

5) self-regulation based on compulsory membership (participation) in a self-regulatory organisation.

**Footnote. Article 81 – as reworded by Law of the RK No. 95-VII of 30.12.2021 (shall come into force ten calendar days after the date of its first official publication).**

#### **Article 81-1. Conditions for the formation of regulatory instruments and/or requirements binding on business entities**

1. Regulatory instruments and/or requirements shall be formed based on the following conditions:

1) justification;

2) equality of business regulation;

3) transparency;

4) enforceability;

5) clearness;

6) proportionality and rationality;

7) consistency and predictability.

2. The conditions referred to in paragraph 1 hereof shall be interpreted as follows:

1) justification means that regulatory instruments and/or requirements are introduced solely for the protection of the rights and legitimate interests of individuals and legal entities, human life and health, the environment, defence and national security of the Republic of Kazakhstan;

2) equality of business regulation means preventing the establishment of more favourable legal conditions for certain market participants, including quasi-public sector entities and natural monopoly entities, when carrying out this regulation, unless otherwise established by the laws of the Republic of Kazakhstan;

3) transparency refers to the availability of information on the regulatory instrument and/or requirement to be introduced (changed) and the clarity of the reasons for its introduction;

4) enforceability refers to the ability of business entities to comply with the terms of the regulatory instrument and/or requirement imposed;

5) clearness means that the norms of the regulatory instruments and/or requirements are presented in a comprehensible, accessible form that does not allow for ambiguous interpretation;

6) proportionality and rationality refers to the consistency of the level of impact of state regulation of business with the degree of risk of adverse events for the values protected by the Constitution and laws of the Republic of Kazakhstan;

7) consistency and predictability refers to the consistency of the regulatory instruments and/or requirements introduced and/or in force with the documents of the State Planning System in the Republic of Kazakhstan.

3. The introduction of regulatory instruments and/or requirements, as well as changes to existing ones, shall be subject to the conditions laid down herein.

Regulatory instruments and/or requirements shall be consistent with the goals, objectives of state regulation of business and the principles of interaction between business entities and the state as set out in Articles 3 and 80 of this Code.

4. The evaluation of consistency with the conditions of implemented and in force regulatory instruments and/or requirements shall be performed as part of the regulatory impact analysis in line with the rules for conducting and using regulatory impact analysis of regulatory instruments and/or requirements.

**Footnote. Chapter 7 as supplemented by Article 81-1 in obedience to Law of the Republic of Kazakhstan No. 95-VII of 30.12.2021 (shall be enacted ten calendar days after the date of its first official publication).**

## **Article 82. Specifics of the development and adoption of regulatory legal acts providing for the introduction of regulatory instruments and (or) requirements, toughening regulation in relation to business entities**

1. Where public authorities intend to introduce a new regulatory instrument and/or requirement, to tighten regulation on business entities, public authorities must first carry out a regulatory impact analysis procedure in a way to be determined by the competent authority on entrepreneurship.

Tougher regulation shall involve imposing additional obligations or otherwise increasing the burden on business entities.

2. The introduction of a new requirement or toughening of regulation in relation to business entities shall envisage the cancellation of two requirements in the same area of legal regulation of business activities in the manner prescribed by the rules for conducting and using regulatory impact analysis of regulatory instruments and (or) requirements, excluding cases that may entail a massive threat to human life and health, the environment and national security of the Republic of Kazakhstan.

The provisions of this paragraph shall not apply to cases where the regulation of the respective legal relations in the course of business activities is introduced for the first time, as well as to the situations stipulated in sub-paragraph 3) of paragraph two hereof.

3. Draft documents of the State Planning System in the Republic of Kazakhstan, draft regulatory legal acts of the Republic of Kazakhstan, draft technical regulations of the Eurasian Economic Union, providing for the introduction of regulatory instruments and (or) requirements or stricter regulation of business entities are subject to regulatory impact analysis.

However, the requirement to perform a regulatory impact analysis before and after the introduction of a regulatory instrument and/or a requirement to toughen regulation on business entities shall not apply to:

- 1) regulating the consequences of accidents, natural disasters and other emergencies;
- 2) regulation of the turnover of weapons and military equipment, turnover of civilian and service weapons and ammunition, turnover of narcotic drugs, psychotropic substances, their analogues and precursors;
- 3) regulating the activities of financial institutions, branches of non-resident Kazakhstan banks, branches of non-resident Kazakhstan insurance (reinsurance) organisations, branches of non-resident Kazakhstan insurance brokers and persons belonging to insurance groups and banking conglomerates, as well as to the drafts of regulatory legal acts of the National Bank of the Republic of Kazakhstan and the competent authority for the regulation, control and supervision of the financial market and financial organisations;
- 4) establishment of a special currency regime in the event of a threat to the economic stability of the Republic of Kazakhstan and the stability of its financial system;
- 4-1) introduction of prohibitions and quantitative restrictions and measures of customs and tariff regulation in order to prevent or reduce a critical shortage in the domestic market of food or other goods included in the list of essential goods and to ensure the national security of the Republic of Kazakhstan on the basis of a decision of the advisory body on trade policy under the Government of the Republic of Kazakhstan;
- 5) Draft regulations containing information constituting State Secrets;
- 6) decision-making on the establishment of a quarantine zone with the introduction of a quarantine regime in the territory concerned, as well as quarantine or restrictive measures in the event of infectious and parasitic diseases of humans and contagious animal diseases;
- 7) regulating issues regarding countering extremism and terrorism;
- 8) regulation of issues in the sphere of counter-intelligence and intelligence activities;
- 9) regulation of issues in the field of operational and investigative activities;
- 10) regulation of security measures to ensure the safety of protected persons and facilities;
- 11) regulation of issues associated with the proclamation and enforcement of martial law.

The requirements to perform a regulatory impact analysis when introducing a new regulatory instrument and (or) requiring or toughening regulation in relation to business

entities shall also not apply to draft laws developed as a legislative initiative of the President of the Republic of Kazakhstan and deputies of the Parliament of the Republic of Kazakhstan, as well as to the consideration process of draft laws in the Parliament of the Republic of Kazakhstan. Regulatory impact analysis may be performed with respect to draft laws introduced by way of legislative initiative of the deputies of the Parliament of the Republic of Kazakhstan, as well as amendments by the deputies to draft laws, being under consideration in the Parliament of the Republic of Kazakhstan, on the grounds established hereby, as part of the opinion of the Government of the Republic of Kazakhstan.

4. The introduction of a new regulatory instrument and/or requirement, toughening regulation on business entities shall only be implemented after approval at a meeting of the interdepartmental commission on business regulation.

The Interdepartmental Commission on Entrepreneurship Regulation shall be an advisory and consultative body under the Government of the Republic of Kazakhstan, established to develop proposals and recommendations on improving the legislation of the Republic of Kazakhstan in the field of entrepreneurship, whose main functions shall include:

- 1) consideration of the results of the regulatory impact analysis;
- 2) consideration and approval of the annual report on the state of business regulation in the Republic of Kazakhstan;
- 3) reviewing and taking decisions on the recommendations of the expert groups;
- 4) exercising other functions in pursuance of the legislation of the Republic of Kazakhstan

The Interdepartmental Commission on Business Regulation shall be authorised to:

- 1) interact with central executive and other public authorities and organisations;
- 2) submit proposals and recommendations to the Government of the Republic of Kazakhstan on improving the legislation of the Republic of Kazakhstan in the field of entrepreneurship;
- 3) invite to the sessions of the interdepartmental commission on the regulation of entrepreneurial activity and to hear representatives of state bodies and other organisations of the Republic of Kazakhstan on issues falling within its competence;
- 4) request and obtain from public authorities and other organisations the required materials, excluding information constituting commercial, banking and other secrets protected by law;
- 5) establish expert groups, approve their regulations and ensure transparency in the formation and operation of such expert groups.

The requirements of this paragraph do not apply to draft acts of regional significance, as well as to the cases provided for in subparagraphs 3) and 4) of part two of paragraph 3 of this Article, except in cases of the introduction of a regulatory instrument and (or) requirements, stricter regulation of business entities in draft laws of the Republic of Kazakhstan.

Acts of regional significance shall refer to documents of the State Planning System in the Republic of Kazakhstan and normative legal acts adopted by local representative and executive bodies, including the akim of the respective territory.

5. The introduction of administrative and/or criminal liability or a review of the existing administrative and/or criminal liability of business to a greater extent, in addition to the regulatory impact analysis, shall include:

- 1) the inadmissibility of punitive legal measures;
- 2) a reasonable balance of legal responsibility where more than one type of legal liability is imposed for the same offence;
- 3) clarification of the requirements the violation of which entails legal liability in the regulatory impact analysis.

**Footnote. Article 82 - as reworded by Law of the RK No. 95-VII of 30.12.2021 (shall come into force ten calendar days after its first official publication); dated 05.11.2022 No. 157-VII (shall be enforced from 01.01.2023); as amended by the Laws of the Republic of Kazakhstan dated 30.12.2022 No. 177-VII (shall be enforced ten calendar days after the date of its first official publication);**

### **Article 83. Regulatory Impact Analysis**

1. Regulatory impact analysis shall refer to the analytical procedure of contrasting the benefits and costs of a regulatory instrument and/or requirement, a stricter regulation, to assess the achievement of the regulatory objectives at a later stage.

The goal of regulatory impact analysis shall be to improve the effectiveness and efficiency of public policy in using specific regulatory instruments and/or requirements, toughening regulation by assessing alternative regulatory approaches to achieve certain objectives or address clearly specified.

Regulatory impact analysis shall evaluate the impact of a regulatory instrument and/or requirement that is being introduced, or a tougher regulation, on the competitive environment.

Regulations for conducting a competition impact assessment shall be approved by the competition authority.

2. Regulatory impact analysis shall be performed before and after the implementation of a regulatory instrument and/or requirement, regulatory toughening, including for existing regulatory instruments and/or requirements, for which no regulatory impact analysis has been performed before.

Analysis of the regulatory impact of the regulatory instruments and/or requirements implemented, the toughening of regulation, as well as the regulatory instruments and/or requirements, the toughening of regulation in force shall be performed in line with the revision plans approved annually by the state regulatory authorities, taking into account reasonable proposals of the competent authority on entrepreneurship, the National Chamber of Commerce.

Regarding the documents referred to in subparagraph 6) of paragraph 2 of Article 80 of this Code, the revision plan is approved annually by the local executive body of the region, the city of republican status, the capital, including the reasonable proposals of the regional chamber of entrepreneurs.

Information on the non-implementation by public authorities of plans to revise existing regulatory instruments and/or requirements, toughening regulation shall be submitted to the interdepartmental commission on business regulation.

2-1. A regulatory instrument and/or requirement, toughening of regulation in relation to business entities may be withdrawn or revised based on proposals made by the Ombudsman for the Protection of Entrepreneurs of Kazakhstan.

In the event envisaged in part one of this paragraph, the public authorities shall first carry out a regulatory impact assessment procedure hereunder.

3. According to the results of the analysis of the regulatory impact, depending on the effectiveness of the use of the regulatory instrument, the regulatory instrument may be canceled or otherwise revised.

The regulatory instrument is subject to cancellation in case of failure to achieve the objectives of state regulation of entrepreneurial activities, declared with its introduction.

4. Analysis of the regulatory impact is carried out by state bodies in respect of draft documents provided for by paragraph 2 of Article 80 of this Code, as well as by the authorized body on entrepreneurship, the National Chamber and other interested persons in a manner determined by the authorized body on entrepreneurship.

At the same time, the analysis of the regulatory impact is carried out by the regulatory state bodies, with the exception of acts of regional significance, in relation to which the regulatory impact analysis is carried out by their developers.

5. Regulatory impact analysis shall be a prerequisite for the introduction of a new regulatory instrument and/or requirement, a tougher regulation.

6. Authorized body on entrepreneurship:

1) considers the results of the regulatory impact analysis and provides an opinion on the compliance of the regulatory authorities, the National Chamber and other stakeholders with the established procedures, with the exception of draft acts of regional importance;

2) in case of disagreement with the findings of the analysis of the regulatory impact, conducts an alternative analysis of the regulatory impact;

3) when forming and maintaining the register of mandatory requirements in the field of entrepreneurship, provides confirmation of compliance of a regulatory legal act or other document containing mandatory requirements in accordance with the legislation of the Republic of Kazakhstan, a draft regulatory legal act of the Republic of Kazakhstan, a draft document of the State Planning System in the Republic of Kazakhstan or a draft other



document containing mandatory requirements in accordance with the legislation of the Republic of Kazakhstan, with the requirements of Articles 9, 11, 80, 81-1 and 82 of this Code

7. The local executive body of the region, the city of republican status, the capital, providing leadership in entrepreneurship:

1) considers the results of the analysis of the regulatory impact and draws a conclusion on the compliance of the developers of draft acts of regional importance, the regional chamber and other interested parties with the established procedures;

2) in case of disagreement with the findings of the analysis of the regulatory impact, conducts an alternative analysis of the regulatory impact.

The outcomes of the regulatory impact analysis shall be presented to the consultative and advisory body under the akimat of the oblast, city of national significance and the capital on interdepartmental issues, formed under the Law of the Republic of Kazakhstan “On Local Public Administration and Self-Government in the Republic of Kazakhstan”, the endorsement thereof is a mandatory condition for introducing a new regulatory instrument and/or requirement, toughening regulation.

8. The results of the analysis of the regulatory impact and the alternative analysis of the regulatory impact are posted on publicly accessible Internet resources.

**Footnote. Article 83 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after its first official publication); as amended by Law of the RK No. 95-VII of 30.12.2021 (shall be enacted ten calendar days after the date of its first official publication); No. 101-VII of 03.01.2022 (shall take effect on 01.05.2022); dated 05.11.2022 No. 157-VII (shall be enforced from 01.01.2023).**

### **Article 83-1. Registry of mandatory business requirements**

1. The register of mandatory business requirements (hereinafter referred to as the register of requirements) shall refer to a publicly accessible database of regulatory acts in the context of business regulation areas.

For the purposes hereof, regulatory acts shall mean existing normative legal acts as well as other documents containing under the legislation of the Republic of Kazakhstan requirements that are binding on business entities.

The register of requirements shall fulfil the following objectives:

1) ensuring compliance with the conditions for the formation of the requirements stipulated in this Code and with the principles of interaction between business entities and the state;

2) ensuring awareness among business entities of the exhaustive list of requirements mandatory for their activities.

2. The register of requirements shall include the current regulatory acts containing the requirements mandatory for business entities in the respective areas of regulation.

Regulatory acts shall be recorded in the register of requirements for subsequent analysis to assess their efficiency, including the achievement of the stated objectives of state regulation and compliance with the conditions for the formation of mandatory requirements stipulated by this Code and the principles of interaction between business entities and the state.

The areas of business regulation where regulatory acts are subject to inclusion in the register of requirements shall be determined by the Government of the Republic of Kazakhstan based on the recommendations of the interdepartmental commission on business regulation.

3. Regulatory acts shall be included in the register of requirements upon the submission of the regulatory state authorities applying them in business regulation, submitted to the competent business authority in conformity with the regulations for maintaining the register of mandatory business requirements.

The regulatory authorities shall determine in the submission, in consultation with the competent authority for entrepreneurship, the time frame for the follow-up analysis of the regulatory acts.

4. The regulatory acts shall be analysed in line with the regulations on the conduct and use of regulatory impact analysis of regulatory instruments and/or requirements.

5. Regulatory acts shall be included in the requirements register as follows:

1) the Laws of the Republic of Kazakhstan - article by article;

2) other regulatory legal acts of the Republic of Kazakhstan and other documents - according to the names of these acts or documents with indication of their requisites.

6. If the state regulatory authority has not analysed the regulatory act in time, the act in question will be removed from the requirements register.

To prevent entrepreneurs from being held liable for breaching requirements that do not comply with Article 81-1 of this Code, the regulatory authority shall repeal (declare invalid) or amend and/or supplement the regulatory acts in case they are missing and/or removed from the register of requirements:

1) within six months from the date of removal from the requirements register or discovery of absence from the requirements register - for the requirements stipulated by the legislative acts of the Republic of Kazakhstan;

2) within three months from the date of removal from the requirements register or the revelation of absence from the requirements register - for other regulations and documents.

In case of a breach of the deadlines stipulated in sub-paragraphs 1) and 2) of part two of this paragraph, failure to comply with the requirements of the relevant regulatory acts by business entities may not constitute grounds for holding them administratively liable.

7. The requirements register shall be compiled and maintained by the responsible body for entrepreneurship based on the Unified Legal Information System.

Footnote. Chapter 7 as supplemented by Article 83-1 in obedience to Law of the RK No. 95-VII of 30.12.2021 (shall come into force on 01.01.2023).

#### **Article 84. Competence of the Government of the Republic of Kazakhstan in state regulation of entrepreneurship**

1. The competence of the Government of the Republic of Kazakhstan shall include:

1) approval of rules for the maintenance and use of the register of entrepreneurs;

1-1) development of the main directions of state policy in state regulation of entrepreneurship;

1-2) excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication);

1-3) determination of the spheres of regulation of entrepreneurial activity, the regulatory acts of which are subject to inclusion in the register of requirements;

2) excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication);

3) excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication);

4) excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication);

2. Excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication).

Footnote. Article 84 as amended by the Law of the Republic of Kazakhstan No.156-VI dated 24.05.2018 (order of enforcement see Article 2); dated 30. 12. 2020 No. 397-VI (shall be enforced upon expiry of six months after the date of its first official publication); dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023); dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication).

#### **Article 85. Authorized body on entrepreneurship and its competence in state regulation of entrepreneurship**

1. The authorized agency for entrepreneurship is a government agency that provides leadership and inter-sectoral coordination in the development and support of private entrepreneurship.

2. Authorized body on entrepreneurship:

1) informs the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan on violations of the legislation of the Republic of Kazakhstan regulating the activities of business entities permitted by state bodies and their officials;

1-1) formulates and implements state policy in the field of state regulation of entrepreneurship;

2) coordinates the risk assessment system of state bodies by joint approval of risk assessment criteria, checklists developed by authorized state bodies;

3) develops and approves the forms of checklists;

3-1) interacts with the authorized body in legal statistics and special accounting for the exchange of information on the registration of inspections and preventive control and supervision of the bodies of control and supervision;

4) maintains a register of entrepreneurs;

4-1) maintains a register of social entrepreneurship entities;

5) develops rules for maintaining and using the register of entrepreneurs;

5-1) approves the rules for maintaining the register of mandatory requirements in the field of entrepreneurship;

5-2) develops and approves the rules for formation of a risk assessment and management system by regulatory state bodies;

6) approves the rules for calculating the average annual number of employees and average annual income;

7) develops and approves rules for conducting and using regulatory impact analysis of regulatory instruments and/or requirements;

8) Excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication);

9) provides methodological assistance and coordinates the activities of regulatory state bodies on the implementation of regulatory impact analysis;

10) considers reports of local executive bodies of the region, the city of republican status, the capital, providing leadership in entrepreneurship, on the state of work on the analysis of regulatory impact;

10-1) ensures the activities of the interdepartmental commission on the regulation of entrepreneurial activities;

11) organizes training of civil servants and other persons in the implementation of regulatory impact analysis;

12) conducts an alternative analysis of the regulatory impact;

13) develops a draft annual report on the state of regulation of entrepreneurship in the Republic of Kazakhstan;

13-1) develops and approves the list of information tools;

13-2) is excluded by the Law of the Republic of Kazakhstan dated 02.01.2021 No. 399-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication);

13-3) is excluded by the Law of the Republic of Kazakhstan dated 02.01.2021 No. 399-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication);

13-4) develops a list of informatization objects of state bodies and organizations subject to integration with the register of business partners in agreement with the National Chamber of Entrepreneurs of the Republic of Kazakhstan;

14) exercises control in support and protection of private entrepreneurs.

3. The authorized body on entrepreneurship shall exercise other powers provided for by this Code, other laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

**Footnote. Article 85 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication); dated 02.01.2021 No. 399-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 24. 06. 2021 No. 52-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 95-VII of 30.12.2021 (see Article 2 for the enactment procedure); dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).**

### **Article 86. Regulatory state bodies and their competence in state regulation of entrepreneurship**

1. Regulatory government agencies are:

1) public authorities exercising leadership in a particular industry or sphere of public administration in which state control and supervision is exercised;

2) public authorities exercising leadership in a particular sector or area of government where a regulatory instrument and/or requirement is introduced or planned to be introduced, toughening regulation on business entities.

2. The competence of regulatory state bodies exercising leadership in a particular industry or sphere of public administration in which state control and supervision is carried out includes:

1) implementation of state policy in state control and supervision in the relevant industry (sphere) in which state control and supervision is carried out;

2) approval, within its competence, of regulatory legal acts provided for in paragraph 1 of Article 143 of this Code, as well as semi-annual schedules of inspections;

2) adoption, within its competence, of the regulations envisaged in paragraphs 2 and 3 of Article 141, paragraph 1 of Article 143 of this Code, as well as the semi-annual schedules for inspections;

3) organization of state control and supervision in accordance with the laws of the Republic of Kazakhstan;

4) monitoring the effectiveness of state control and supervision;

4-1) consideration of proposals of the authorized body in legal statistics and special accounting to improve the conduct of state control and supervision and decision-making, including by amending and supplementing the regulatory legal acts of the Republic of Kazakhstan;

5) performing other functions stipulated by this Code, the laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

3. The competence of the regulatory public authorities governing a particular sector or area of public administration where a regulatory instrument and/or requirement is introduced or planned to be introduced, to toughen regulation of business entities, shall include:

1) submission to the authorized body on entrepreneurship of reports on the status of regulation of entrepreneurial activities;

2) the exercise of other powers provided for by this Code, other laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

**Footnote. Article 86 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication); No. 95-VII of 30.12.2021 (see Article 2 for the enactment procedure);**

### **Article 87. Bodies of control and supervision and their competence in state regulation of entrepreneurship**

1. Bodies of control and supervision are state bodies, their departments and territorial divisions, as well as local executive bodies that monitor and check for compliance of the activities of the audited entities with the requirements established by the legislation of the Republic of Kazakhstan in accordance with paragraph 2 of Article 132 of this Code.

2. The competence of the bodies of control and supervision shall include:

1) implementation of state policy in state control and supervision in the relevant field;

2) development, within its competence, of regulatory legal acts provided for in paragraph 1 of Article 143 of this Code, as well as semi-annual schedules of inspections;

2) development within its competence of the regulatory legal acts provided for by paragraphs 2 and 3 of Article 141, paragraph 1 of Article 143 of this Code, as well as semi-annual schedules for conducting inspections;

3) carrying out state control and supervision in accordance with the laws of the Republic of Kazakhstan;

4) monitoring the effectiveness of state control and supervision;

5) making proposals for improving the conduct of state control and supervision;

6) implementation of other functions stipulated by this Code and other Laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

**Footnote. Article 87 as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

### **Article 88. Competence of the antimonopoly authority in state regulation of entrepreneurship**

**Footnote. Chapter 19 is excluded by the Law of the Republic of Kazakhstan dated 28.12.2016 No. 34-VI (shall be enforced from 01.01.2017).**

### **Article 89. Competence of other state bodies in state regulation of entrepreneurship**

State bodies within their competence in state regulation of entrepreneurship:

1) participate in the formation and implementation of state policy in state regulation of entrepreneurship;

2) exercise other powers provided for by this Code, other laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

### **Article 90. Competence of local executive bodies in state regulation of entrepreneurship**

Local executive bodies of the Republic of Kazakhstan carry out:

1) within its competence, the approval of the maximum permissible retail prices for socially significant food products;

2) permitting procedures, gaining notifications in accordance with the legislation of the Republic of Kazakhstan on permits and notifications;

2-1) conducting an alternative analysis of regulatory impact;

2-2) submission to the authorized body for business reports on the status of work on the analysis of regulatory impact;

2-3) organization and holding of the Unified report day;

2-4) Excluded by the Law of the Republic of Kazakhstan dated 30.12.2022 No. 177-VII (shall be enforced ten calendar days after the date of its first official publication);

2-5) Excluded by the Law of the Republic of Kazakhstan dated 30.12.2022 No. 177-VII (shall be enforced ten calendar days after the date of its first official publication);

3) in the interests of local government, other powers imposed on local executive bodies by the legislation of the Republic of Kazakhstan.

Footnote. Article 90 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication); dated 30.12. 2020 No. 397-VI (shall be enforced upon expiry of six months after the date of its first official publication); dated 30.12.2022 No. 177-VII (shall be enforced ten calendar days after the date of its first official publication).

### **Chapter 7-1. Antimonopoly authority and its powers**

Footnote. The Code is supplemented by Chapter 7-1 in accordance with the Law of the Republic of Kazakhstan dated 28.12.2016 No. 34-VI (the order of enforcement, see Art. 2).

#### **Article 90-1. Antimonopoly authority system**

1. The unified system of the competition authority shall consist of a public authority and its subordinate territorial units.

2. The territorial sub-divisions shall exercise their activities within the limits of the powers established by the legislation of the Republic of Kazakhstan and the regulations approved by the central public authority.

Footnote. Article 90-1 as amended by Law of the RK No. 101-VII of 03.01.2022 (shall go into effect upon expiry of sixty calendar days after its first official publication).

#### **Article 90-2. Objectives of the antimonopoly authority**

The objectives of the antimonopoly authority are:

- 1) promoting the development of fair competition;
- 2) prevention, detection and investigation, suppression of violations of the legislation of the Republic of Kazakhstan in protection of competition;
- 3) regulation of economic concentration;
- 4) demonopolization of market entities that restrict competition.

**Footnote. Article 90-2 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).**

### **Article 90-3. Governance of the competition authority**

The competition authority shall be governed by its first head.

**Footnote. Article 90-3 - as reworded by Law of the RK No. 101-VII of 03.01.2022 (shall be enacted upon expiry of sixty calendar days after its first official publication).**

### **Article 90-4. Interaction of the antimonopoly authority with the antimonopoly authorities of other states**

1. Within the framework of the Eurasian Economic Union, the antimonopoly authority interacts with the antimonopoly authorities of the member states of the Eurasian Economic Union in accordance with international treaties, including by sending notifications, requests for information, consulting, informing about investigations in accordance with the procedure established by the legislation of the Republic of Kazakhstan.

2. Within the framework of participation in international organizations, the antimonopoly authority has the right to send requests to the antimonopoly authorities of other states and provide information upon their requests.

### **Article 90-5. The interaction of antimonopoly and law enforcement agencies**

1. The antimonopoly authority shall interact with the law enforcement authorities of the Republic of Kazakhstan within its authority in the following forms:

1) informs the law enforcement authorities on the revealed facts of offenses in protection of competition;

2) upon request of law enforcement agencies, provides analytical information on the state of competition in commodity markets;

3) within its competence, conducts, upon request of law enforcement bodies, expert examinations and gives opinions on the legislation of the Republic of Kazakhstan in competition protection;

4) according to resolutions and requests of law enforcement agencies, their territorial subdivisions, as experts, send their employees to participate in legal proceedings and measures to investigate violations of the legislation of the Republic of Kazakhstan in competition protection.

2. Law enforcement authorities of the Republic of Kazakhstan shall interact with the antimonopoly authority within their powers in the following forms:



1) inform the antimonopoly authority of the identified violations of the legislation of the Republic of Kazakhstan in protection of competition;

2) upon requests and appeals of the antimonopoly authority:

send employees to conduct joint activities to investigate violations of the legislation of the Republic of Kazakhstan in protection of competition, as well as to prevent unlawful actions that impede the performance of official obligations by employees of the antimonopoly body;

take measures to establish the locations of violators of the legislation of the Republic of Kazakhstan in protection of competition and their delivery to the antimonopoly body for bringing to administrative responsibility in accordance with the written requests of the antimonopoly body in the manner established by the Code of Administrative Offenses of the Republic of Kazakhstan;

in accordance with the procedure established by the Criminal Procedure Code of the Republic of Kazakhstan, make decisions on conducting a pre-trial investigation on materials submitted by the antimonopoly authority with signs of criminal anticompetitive actions, which the antimonopoly authority is informed of;

provide practical assistance to the antimonopoly authority in detecting and securing evidence of violations of the legislation of the Republic of Kazakhstan in competition protection.

#### **Article 90-6. Competence of the antimonopoly authority**

Antimonopoly authority:

1) executes the implementation of state policy in protection of competition and restriction of monopolistic activities;

2) carries out inter-sectoral coordination of state bodies and other organizations in competition protection and restriction of monopolistic activities;

3) carries out international cooperation on the protection of competition and the restriction of monopolistic activities;

4) exercises state control over compliance with the legislation of the Republic of Kazakhstan in protection of competition;

5) suppresses acts, actions (inaction) of state and local executive bodies, organizations endowed with state functions of regulating the activities of market entities, aimed at restricting and (or) eliminating competition;

6) is excluded by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI ( shall be enforced upon the expiry of ten calendar days after the date of its first official publication);

6-1) considers applications for consent for economic concentration;

7) warns and eliminates abuses of the dominant or monopolistic position in the relevant product market, with the exception of violations stipulated by the legislation of the Republic of Kazakhstan on natural monopolies;

7-1) develops and approves the rules for provision of compulsory services by natural monopoly entities and the quasipublic sector under protection of competition and restriction of monopolistic activities;

8) prevents and suppresses anticompetitive agreements and concerted actions of market entities, unfair competition;

9) coordinates regulatory legal acts in competition protection, restrictions on monopolistic activities and the functioning of commodity markets;

10) disseminates information on the application of the norms of the legislation of the Republic of Kazakhstan in protection of competition and promotion of fair competition;

11) analyzes the state of competition in commodity markets;

12) carries out the analysis and monitoring of the activities of market entities that hold a dominant or monopolistic position in the relevant product market;

13) Excluded by Law of the RK No. 101-VII of 03.01.2022 (shall come into force sixty calendar days after the date of its first official publication).

14) develops and approves a methodology for analyzing socially significant markets;

15) develops and approves methods for conducting a survey of commodity markets in which state-owned enterprises and legal entities will be created, where more than fifty percent of shares (shares in the authorized capital) owned by the state, and legal entities affiliated with them and (or) carried out by them activities in relation to state enterprises and legal entities, where more than fifty percent of the shares (shares in the authorized capital) owned by the National Bank of the Republic of Kazakhstan, and legal entities affiliated with them - in coordination with the National Bank of the Republic of Kazakhstan;

16) develops and approves a methodology for assessing the economic concentration in commodity markets;

17) develops and approves a methodology for assessing economic concentration in financial markets in agreement with the authorized body for regulation, control and supervision of the financial market and financial organizations;

18) reveals a monopoly high (low), monopsony low price set by a dominant or monopolistic market entity;

19) approves methods for identifying monopoly high (low) and monopsony low prices;

20) conducts investigations into the facts of violation of the legislation of the Republic of Kazakhstan in protection of competition by market entities, state, local executive bodies, organizations, which are vested with the state functions of regulating the activities of market entities, in the manner established by this Code;

20-1) develops and approves regulations for monitoring the activities of state-owned enterprises, legal entities with over fifty per cent of shares (participating interests in the authorised capital) owned by the state, and their affiliated entities with regard to obtaining the

consent of the antimonopoly authority when establishing, expanding and (or) changing the conducted activities, as well as conducting only those activities subject to the consent of the antimonopoly authority.

20-2) monitors the activities of state-owned enterprises, legal entities more than fifty per cent of whose shares (equity interests) are owned by the state, and their affiliates for the consent of the anti-monopoly authority when establishing, expanding and (or) changing their activities, and when carrying out only those activities for which the consent of the anti-monopoly authority has been obtained;

21) requests and receives, in accordance with the procedure established by the laws of the Republic of Kazakhstan, from state bodies, including the authorized body in state statistics, state revenue bodies, market subjects, as well as officials and other individuals and legal entities, information necessary for the exercise of authority, provided for by this Code, including information constituting commercial and other secrets protected by law, with the exception of bank secrets, insurance secrets and trade secrets in the market securities;

22) issues to the market entities binding instructions on:

stopping violations of the norms of this Code and (or) eliminating their consequences;

restoration of the original position;

termination or amendment of contracts contrary to this Code;

the need to cancel transactions by canceling or invalidating them when regulating economic concentration;

entering into an agreement with another market entity in the event that the violation is an unreasonable refusal or evasion of concluding an agreement with certain sellers (suppliers) or buyers;

23) makes to the state, local executive bodies, organizations vested with the state functions of regulating the activities of market entities, binding instructions to repeal or amend the acts adopted by them, eliminate violations, as well as cancellation, cancellation or amendment of agreements and transactions concluded by them, and the performance of actions aimed at ensuring competition;

24) considers cases on administrative offenses and imposes administrative penalties in the manner established by the Code of the Republic of Kazakhstan on Administrative Offenses, participates in a court to hear cases on violations of the legislation of the Republic of Kazakhstan in competition protection;

25) sends to law enforcement agencies materials for conducting a pre-trial investigation on the grounds of criminal offenses related to violation of the legislation of the Republic of Kazakhstan in protection of competition;

26) annually, not later than June 1, sends to the President of the Republic of Kazakhstan and the Prime Minister of the Republic of Kazakhstan an annual report on the state of competition in certain commodity markets and measures taken to limit monopolistic activities, and also places it on its Internet resource;

27) annually, by January 5 of the year following the reporting year, submits to the Government of the Republic of Kazakhstan proposals on the transfer to the competitive environment of state enterprises, legal entities, more than fifty percent of shares (stakes in the charter capital) of which are owned by the state, and legal entities affiliated therewith, as well as proposals to update the list of activities undertaken by state-owned enterprises, legal entities with over fifty per cent of shares (participating interests in the charter capital) owned by the state, and legal entities affiliated therewith;

28) provides informational openness of the state policy in protection of competition and restriction of monopolistic activities, including quarterly not later than the fifteenth day of the month following the reporting period, places information about its activities in the media, including on its Internet resource;

29) examines the prices of goods produced and (or) sold by a state monopoly entity, a special right;

30) in the manner prescribed by the legislation of the Republic of Kazakhstan, shall apply to law enforcement agencies to conduct operational search activities;

31) sends to the official of the market entity, the state, local executive body, the organization vested with the state functions of regulating the activities of market entities, a written warning about the inadmissibility of an action (inaction) that may lead to violation of the legislation of the Republic of Kazakhstan in competition protection;

32) places on its Internet resource an analysis of the state of competition in commodity markets, with the exception of information containing state secrets and other secrets protected by law;

33) sends to market entities, state, local executive bodies, organizations vested with state regulatory functions of market entities, notification of the presence in the actions (inaction) of the market entity, state, local executive body, organization endowed with state regulatory functions of market entities, signs violations of the legislation of the Republic of Kazakhstan in protection of competition;

34) gives an official explanation of the regulatory legal acts in protection of competition, adopted by the antimonopoly authority;

35) develops and approves the rules for reviewing draft agreements of market entities for compliance or non-compliance with the requirements of the legislation of the Republic of Kazakhstan in competition protection;

36) develops and approves standard external acts of antimonopoly compliance for market entities;

37) establishes the compliance of the external act of antimonopoly compliance sent by the market entity (market entities) with the norms of the legislation of the Republic of Kazakhstan in the field of competition protection;

38) places on its Internet resource information on the results of investigations of violations of the legislation of the Republic of Kazakhstan in competition protection, decisions of the antimonopoly authority;

39) submits claims to the court for termination, amendment of contracts and (or) invalidation of transactions contrary to this Code;

**39-1) Excluded by Law of the RK No. 101-VII of 03.01.2022 (shall come into force sixty calendar days after the date of its first official publication).**

39-2) elaborates and adopts procedures for monitoring prices on commodity markets in order to establish indications of violation of the legislation of the Republic of Kazakhstan in the field of competition protection;

39-3) monitors prices on commodity markets to detect indications of breaches of the legislation of the Republic of Kazakhstan on protection of competition;

39-4) monitors the activities of the providers of state support measures for compliance with the requirements stipulated in Article 194 of this Code, excluding the activities of public authorities and legal entities to implement a set of anti-crisis measures to support the economy and stimulate business activity and employment, initiated by the order of the President of the Republic of Kazakhstan;

39-5) in accordance with the procedure established by the legislation of the Republic of Kazakhstan, approves the business plan for the republican public-private partnership project, the investment offer of the republican state investment project, the tender (auction) documentation of the republican public-private partnership project, including when making amendments and (or) additions to them in the part related to the protection of competition and restriction of monopolistic activity, on projects providing for the implementation of state functions by private partners;

40) exercises other powers provided for by this Code, other laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

**Footnote. Article 90-6 as amended by the Law of the Republic of Kazakhstan No. 156-VI dated 24.05.2018 (order of enforcement see Article 2); No. 262-VI dated 03.07.2019 (shall be enforced since 01.01.2020); No. 268-VI dated October 28, 2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 29. 06.2020 No . 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 101-VII of 03.01.2022 (shall go into effect sixty calendar days after the date of its first official publication); dated 30.12.2022 No. 177-VII (shall be enforced ten calendar days after the date of its first official publication).**

#### **Article 90-7. Rights of the antimonopoly authority**

In the performance of their official duties, including consideration of applications for violation of the legislation of the Republic of Kazakhstan in the field of competition protection, investigation of cases of violation of the legislation of the Republic of Kazakhstan

in the field of competition protection, regulation of economic concentration and determination of the state of the level of competition, in accordance with their assigned powers upon presentation of their service certificates or identification cards and the decision of the antimonopoly body to investigate violations of the legislation of the Republic of Kazakhstan in the field of competition protection, employees of the antimonopoly body shall have the right:

1) to obtain unhindered access to the premises and the territory of state bodies and market entities in compliance with the requirements of the legislation of the Republic of Kazakhstan;

2) to request and receive written information within the time limit set by the anti-monopoly authority, which may not be less than five working days, from state and local executive bodies, market participants, officials and other individuals and legal entities, as well as written and/or oral explanations on the facts of breaches of the legislation of the Republic of Kazakhstan in the field of competition protection.

Where additional time is required, the persons referred to in part one of this sub-paragraph may apply to the competition authority with a reasoned request to extend the deadline for providing information on request.

The decision to extend the deadline for providing information on a request or to refuse an extension shall be taken within two working days of receipt of a reasoned application;

3) to exercise other powers established by the legislation of the Republic of Kazakhstan.

**Footnote. Article 90-7 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication); No. 273-VI dated November 26, 2019 (shall be enforced upon the expiration of six months after the day of its first official publication); No. 101-VII of 03.01.2022 (shall come into force sixty calendar days after the date of its first official publication).**

#### **Article 90-8. Ensuring compliance with commercial, official and other secrets protected by law**

1. Information constituting a commercial, official or other secret protected by law obtained by the anti-monopoly authority in the exercise of its powers shall not be disclosed, except for cases established by the laws of the Republic of Kazakhstan.

2. For disclosure of information constituting a commercial, official or other secret protected by law, employees of the antimonopoly authority shall be responsible, as established by the laws of the Republic of Kazakhstan.

3. Harm caused to an individual or legal entity as a result of disclosure by the antimonopoly authority or its officials of information constituting commercial, official and other secrets protected by law shall be reimbursed in accordance with the civil legislation of the Republic of Kazakhstan.

## **Chapter 8. STATE SUPPORT OF PRIVATE ENTREPRENEURSHIP**

## **Article 91. The concept of state support of private entrepreneurship**

The state support of private entrepreneurship is understood as a complex of state measures to stimulate the development of private entrepreneurship, the creation of favorable legal and economic conditions for the implementation of entrepreneurial initiatives in the Republic of Kazakhstan.

## **Article 92. The main directions of state support for private entrepreneurship**

1. State support for private entrepreneurship is carried out in the following main directions :

- 1) small and medium-sized entrepreneurship, including social entrepreneurship;
- 2) agro-industrial complex and non-agricultural types of entrepreneurial activities in rural areas;
- 3) government incentives for industry;
- 3-1) innovative activities;
- 4) special economic zones;
- 4-1) industrial areas;
- 5) investment activities;
- 6) entrepreneurship of domestic manufacturers of goods;
- 6-1) activities of private business entities in the field of creative industries;
- 7) housing;
- 8) waste management;
- 9) tourism activities.

2. State support for private entrepreneurship may also be carried out in other directions in cases established by the legislation of the Republic of Kazakhstan.

**Footnote. Article 92 as amended by the Law of the Republic of Kazakhstan dated 28.12.2016 No. 34-VI (shall be enforced from 01.01.2017); No. 243-VI dated 03.04.2019 ( shall be enforced upon expiry of ten calendar days after its first official publication); dated 24. 06. 2021 No. 52-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 02.01.2021 No. 401-VI (shall be enforced from 01.07.2021); dated 30.04.2021 No. 34-VII (shall be enforced from 01.01.2022); No. 87-VII of 27.12.2021 ( shall be enforced ten calendar days after the date of its first official publication); dated 30.12.2022 No. 177-VII (shall be enforced ten calendar days after the date of its first official publication).**

## **Article 93. General types of state support for private entrepreneurship**

1. State support for private entrepreneurship includes the following general types:
  - 1) financial and property support;
  - 2) infrastructure support;
  - 3) institutional support, consisting in the creation and development of financial institutions for the support and development of private entrepreneurship, research institutes

under state bodies for studying problems and developing proposals for the development of private entrepreneurship;

4) information support, which consists in information-analytical, educational and methodological, scientific and methodological support of private entrepreneurship.

2. State support for private entrepreneurship provides for other types of state support for private entrepreneurship established by this Code and the legislation of the Republic of Kazakhstan.

**Footnote. Article 93 as amended by the Law of the Republic of Kazakhstan dated 04.07.2018 No. 174-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).**

#### **Article 94. Financial and property support for private entrepreneurship**

1. Financial and property support for private entrepreneurship is carried out by:

- 1) purchase of a guaranteed volume of goods (works, services);
- 2) provision of loans at the expense of budget funds;
- 3) credit organizations through second-tier banks, national development institutions and other legal entities in accordance with the legislation of the Republic of Kazakhstan;
- 4) issuance of state grants for the organization and implementation of socially significant projects in sectors of the economy;
- 5) subsidizing interest rates on loans issued and leasing transactions made by second-tier banks, the Development Bank of Kazakhstan and other legal entities engaged in leasing activities, private entrepreneurs;
  - 5-1) subsidizing interest rates on loans issued by second-tier banks to private business entities for housing construction in the manner determined by the authorized body for architecture, urban planning and construction;
  - 5-2) subsidizing the interest rate on loans issued to private business entities by second-tier banks for the purposes of implementing "green" projects;
- 6) subsidizing interest rates on microloans issued by microfinance organizations to private entrepreneurs;
  - 6-1) subsidizing the rate of coupon interest on bonds issued by private business entities in accordance with the legislation of the Republic of Kazakhstan and included in the list of the stock exchange operating in the Republic of Kazakhstan;
  - 6-2) subsidizing the coupon interest rate on "green" bonds, including those issued in accordance with the acts of the Astana International Financial Center and included in the list of the Astana International Financial Center Exchange;
- 7) reimbursement and (or) subsidization of expenses and (or) costs;
- 8) partial guaranteeing of loans from private entrepreneurships;
- 9) leasing;
- 10) provision of other measures of financial and property support to private entrepreneurship established by this Code and the legislation of the Republic of Kazakhstan.



2. The procedure, forms of state financial support, the industry (industries) of the economy in which private business entities subject to state financial support operate, the legal entity (entities) attracted (involved) to provide state financial support, the amount of financial support and other conditions necessary for provision of state financial support, are approved by the authorized bodies of the relevant industries in coordination with the authorized body for entrepreneurship.

**Footnote. Article 94 as amended by the Law of the Republic of Kazakhstan dated 28.12.2016 No. 34-VI (shall be enforced from 01.01.2017); of 24.05.2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after its first official publication); dated 02.01.2021 No. 401-VI (shall be enforced from 01.07. 2021); dated 12.07.2022 No. 138-VII ( shall be enforced sixty calendar days after the date of its first official publication); dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).**

### **Article 95. Special fund for private entrepreneurship development**

1. Financial support from the state for initiatives of private business entities is provided for by a special entrepreneurship development fund created by a decision of the Government of the Republic of Kazakhstan, the controlling stake of which belongs to the national managing holding (hereinafter referred to as a "special fund").

The main goal of the special fund is to promote the quality development of private entrepreneurship in the Republic of Kazakhstan through the provision of financial and non-financial support for private entrepreneurship.

The main objectives of the special fund are:

- 1) development of microfinance organizations;
- 2) creation of a system of guaranteeing private business entities when they receive loans from second-tier banks and other legal entities;
- 3) development of financial leasing;
- 4) training and consulting on the implementation of private entrepreneurship, including financial and property support for private entrepreneurship;
- 5) informational and analytical support on issues of private entrepreneurship;
- 6) financing of private business entities through conditional placement of funds in second-tier banks and other legal entities, as well as by other means expressly provided for by the legislation of the Republic of Kazakhstan;
- 7) subsidizing interest rates on loans issued and leasing transactions made by second-tier banks, the Development Bank of Kazakhstan and other legal entities engaged in leasing activities, private entrepreneurs;
- 7-1) subsidizing the rate of coupon interest on bonds issued by private business entities in accordance with the legislation of the Republic of Kazakhstan and included in the list of the stock exchange operating in the Republic of Kazakhstan;
- 8) promotion of private entrepreneurship ideas;

9) monitoring the implementation of programs to support private entrepreneurs;

10) other objectives in accordance with the statute of the special fund.

2. The procedure and conditions for the implementation of the objectives of the special fund are determined by the national managing holding.

**Footnote. Article 95 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).**

#### **Article 96. Informational support for private entrepreneurship**

1. Informational support of private entrepreneurship is carried out in order to improve the professional level of private business entities and their employees, allowing them to produce competitive goods (works, services).

2. Informational support is carried out by the following means:

1) organizing training seminars and scientific conferences for the development of private entrepreneurship;

2) the organization of foreign internships;

3) the distribution of teaching aids, information bulletins on the practice of private entrepreneurship, the market for new technologies;

4) creation of a network of information and consulting centers in the regions;

5) provision of consulting, informational, legal, marketing, and other services;

6) facilitating the transfer of advanced foreign technologies;

7) service informational support in the promotion of domestic goods (works, services) for export;

8) training managers to organize training for small-sized business entities in the regions.

3. Informational support for private business entities is carried out at the expense of budget funds and other sources not prohibited by the legislation of the Republic of Kazakhstan.

4. The authorized body on entrepreneurship in order to provide information; support to private entrepreneurship on its Internet resource places the following information:

1) on state and other programs aimed at supporting private business entities and their implementation;

2) on the number of private business entities with a classification by kinds of economic activities;

3) on organizations forming the infrastructure to support private entrepreneurs, the conditions and procedure for providing support to private business entities by such organizations;

4) on measures of financial support for private entrepreneurs;

5) on results of the analysis of the business environment, investment climate and infrastructure for the development of private entrepreneurship;

6) on advisory documents of regulatory policy, draft regulatory legal acts aimed at providing support for the development of private entrepreneurship;

7) other information necessary for the development of private business entities provided for by this Code, the laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

**Footnote. Article 96 as amended by the Law of the Republic of Kazakhstan dated 05.11.2022 No. 157-VII (shall be enforced from 01.01.2023).**

#### **Article 97. Infrastructure support for private entrepreneurship**

Infrastructure support for private entrepreneurship is provided for through the creation and development of an infrastructure to support private entrepreneurship, which refers to a complex of established or existing organizations that provide general conditions for the operation and development of private entrepreneurship, including assistance in organizing their own business, providing information in law, marketing, engineering and management, support in providing logistical, financial and other resources to commercial basis.

Private business support infrastructure shall include business support centres, business incubators and elements of industrial-innovation infrastructure envisaged by the Law of the Republic of Kazakhstan “On Industrial Policy”.

**Footnote. Article 97 as amended by the Law of the Republic of Kazakhstan dated 04.07.2018 No. 174-VI (shall be enforced upon the expiry of ten calendar days after its first official publication); as amended by No. 87-VII of 27.12.2021 (shall come into force ten calendar days after the date of its first official publication).**

#### **Article 98. Competence of the Government of the Republic of Kazakhstan in state support and development of private entrepreneurship**

1. Government of the Republic of Kazakhstan:

In state support and development of private entrepreneurship:

1) develops the main directions of state policy in support and development of private entrepreneurship;

2) forms the state system of support for private entrepreneurship;

3) determines the procedure for rendering state support for private entrepreneurship;

4) forms and abolishes consultative and advisory bodies under the Government on issues of private entrepreneurship;

**5) excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication);**

**6) is excluded by the Law of the Republic of Kazakhstan No. 202-VI dated 26.12.2018 ( shall be enforced from 01.01.2019);**

**7) excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication);**

8) determines and implements the state policy that stimulates the creation and improvement of competitive industries, the development of private entrepreneurship and the improvement of the quality of their products;

9) develops regulatory legal acts promoting the development of competition and stimulation of investments in innovations, tangible assets, as well as long-term investments;

10) stimulates the creation of clusters in individual sectors of the economy;

11) excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication);

12) creates national development institutions in order to increase investment and accelerate the introduction of innovations into the economy of the Republic of Kazakhstan;

13) carries out temporary protection of individual sectors of customs-tariff and non-tariff methods with the creation of conditions for the development of competition between private business entities in these sectors;

14) takes measures to eliminate barriers established by another country in relation to national exporters;

15) encourages private business entities to conduct a coherent export policy;

16) excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication);

17) creates conditions for improving the competitiveness of national products by encouraging the implementation of quality management systems;

18) creates conditions for external demand by lobbying the interests of national exporters in other countries;

19) interacts with the National Chamber and associations of private business entities and employers;

20) creates research organizations, funds fundamental and applied research to solve problems of the industry or clusters;

21) develops measures to involve socially vulnerable groups of the population in private entrepreneurship;

22) excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication);

23) excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication).

In the field of state support for innovation and state incentives for industry:

1) develops the principal directions of state policy in the area of state support for innovation activities;

2) develops the principal lines of state technology policy and organises its implementation ;

3) determines the national institution for development in the field of innovative development and the list of other legal entities, fifty percent or more of the voting shares (

stakes in the authorised capital) thereof are directly or indirectly owned by the state, authorised to implement state support measures for innovation activities, in line with the legislation of the Republic of Kazakhstan;

4) establishes a Technology Policy Council under the Government of the Republic of Kazakhstan and approve its statute and composition;

5) adopts normative legal acts providing for the implementation of measures of state support for innovation activities, their cancellation, as well as the procedure for their application, to ensure the stability and sustainability of national economic development, including its industrial-innovation component;

6) implements state incentive measures for industry in compliance with the Law of the Republic of Kazakhstan “On Industrial Policy”.

2. Excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII ( shall be enforced ten calendar days after the date of its first official publication).

Footnote. Article 98 as amended by the Law of the Republic of Kazakhstan dated 03.07.2017 No. 86-VI (shall be enforced upon the expiry of ten calendar days after its first official publication); dated 24.05.2018 No. 156-VI (shall be entered into force upon the expiry of ten calendar days after the day of its first official publication); No. 202-VI dated 26.12.2018 (shall be enforced from 01.01.2019); dated 25.06.2020 No. 347-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 87-VII of 27.12.2021 (shall be enforced ten calendar days after the date of its first official publication).

## **Article 99. Competence of the authorized body on entrepreneurship in state support and development of private entrepreneurship**

Entrepreneurial authority:

1) forms and implements the state policy on the development and state support of private entrepreneurship;

2) organizes and coordinates the implementation of state measures to support small-sized and medium-sized business entities;

2-1) approves the rules for providing small and medium-sized businesses with property lease (lease) or trust management of unused state-owned objects and land plots occupied by them for organization of production activities and development of services to the population with subsequent gratuitous transfer to ownership;

2-2) organizes the consideration by expert councils of draft regulatory legal acts developed by central state, local representative and executive bodies, draft international treaties of the Republic of Kazakhstan, as well as international treaties to which the Republic of Kazakhstan intends to become a party, affecting the interests of private business entities;

2-3) analyzes the functioning of economic sectors in order to eliminate obstacles to the development of private business entities;

2-4) organizes the provision of economic information on the state of domestic and foreign markets to private business entities;

2-5) approves the rules for accreditation of associations of private business entities;

3) develops proposals for improving measures for financing and lending to private entrepreneurship entities;

4) analyzes the business environment, investment climate and infrastructure for the development of private entrepreneurship;

5) develops regulatory legal acts providing support and development of private entrepreneurship;

6) contributes to the formation and development of infrastructure of small-sized and medium-sized business entities in the regions of the republic;

7) creates conditions for the participation of small-sized and medium-sized business entities in the implementation of documents of the State Planning System of the Republic of Kazakhstan in innovation, investment and industrial development;

8) creates conditions for investors, international organizations, grantors in the support and development of private entrepreneurship;

9) organizes methodological assistance to private entrepreneurs;

10) creates conditions for the entry of private entrepreneurship into international markets of goods, works, services;

11) carries out international cooperation in private entrepreneurship development;

2) promotes public policy for the development and support of private entrepreneurship;

13) exercise other powers provided for by this Code, the laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

**Footnote. Article 99 as amended by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).**

### **Article 100. Competent authority in the field of state incentives for industry and its competence in the area of state support for private enterprise**

The competent authority in the area of state incentives for industry shall provide state incentives for industry in obedience to the Law of the Republic of Kazakhstan “On Industrial Policy”.

**Footnote. Article 100 - as reworded by Law of the RK No. 87-VII of 27.12.2021 (shall be enacted ten calendar days after its first official publication).**

### **Article 100-1. Authorized body in the field of state support for innovation activity and its competence in the field of state support of private entrepreneurship**

1. The competent authority in the area of state support for innovation activity shall be the central executive body responsible for guidance in the area of innovation and technological development, as well as, within the limits stipulated by the legislation of the Republic of

Kazakhstan, inter-sectoral coordination and participation in the implementation of state support for innovation activity.

2. The authorized body in the field of state support for innovation activity shall:

1) forms and implements the state policy in the field of state support of innovation activity ;

1-1) forms and implements the state technological policy;

2) determine the priority areas for the provision of innovative grants;

3) agrees to development plans of national management holding companies, national holdings and national companies, development plans and action plans of legal entities, fifty percent or more of the voting shares (stakes in charter capital) thereof belonging to the state, affiliated legal entities, national management holding companies (excluding the National Welfare Fund), national holdings, national companies (excluding national companies belonging to the National Welfare Fund group) and affiliated legal entities with regard to technology development and innovation;

3-1) approves documents of the State Planning System in the Republic of Kazakhstan in terms of innovation and technological development;

4) develops regulations for the Technology Policy Council under the Government of the Republic of Kazakhstan and submits proposals to the Government of the Republic of Kazakhstan on the establishment of its membership;

4-1) elaborates and approves the methodology and criteria for technology forecasting, the functioning of sectoral technology competence centres, the organisation of technology platforms and the development of targeted technology programmes;

5) develop and approve the rules for the provision of innovative grants for technologies commercialization;

6) develop and approve the rules for the provision of innovative grants for the technological development of industries;

7) develop and approve the rules for the provision of innovative grants for the technological development of existing enterprises;

**8) Excluded by Law of the RK No. 87-VII of 27.12.2021 (shall be enacted ten calendar days after the date of its first official publication).**

9) develops and adopts regulations for the payment of the services of the national innovation development institution in the awarding of innovation grants;

9-1) develops and adopts regulations for business incubation support services;

9-2) develops and approves the methodology for determining the criteria for project innovativeness;

9-3) engages in shaping public policy on digital transformation and implementation of Industry 4.0;

10) ensure and bear responsibility for the implementation and execution of state programs within the competence;

11) exercise other powers provided for by this Code, laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Footnote. Chapter 8 is supplemented by Article 100-1 in accordance with the Law of the Republic of Kazakhstan dated 25.06.2020 No. 347-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); as amended by Law of the RK No. 87-VII of 27.12.2021 (shall go into effect ten calendar days after the date of its first official publication); No. 95-VII of 30.12.2021 (shall come into force ten calendar days after the date of its first official publication); dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

**Article 101. The central authorized body on the state planning and its competence in state support for private entrepreneurship**

1. The central authorized body on the state planning is the central executive body that exercises leadership and inter-sectoral coordination in strategic and economic planning, development and formation of budget policy, as well as the formation and implementation of state policy in regional development.

2. The central authorized state planning body:

1) participates in formation and implementation of state policy in the field of state support of innovative activity and state stimulation of industry

2) makes proposals to the Government of the Republic of Kazakhstan on the determination of priority sectors of the economy;

3) coordinates provision with qualified human resources and regulation of employment in the field of industrial and innovative activities;

4) evaluates the effectiveness of the industrial innovation system;

5) coordinates the development plans of national management holdings, national holdings and national companies, development plans and action plans of legal entities, fifty percent or more of the voting shares (participation shares in the authorized capital) of which belong to the state, legal entities affiliated with them, national management holdings (with the exception of the National Welfare Fund), national holdings, national companies (with the exception of national companies belonging to the National Welfare Fund group) and legal entities affiliated with them;

6) exercises other powers provided for by this Code, the laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Footnote. Article 101 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication); dated 27.12.2021 No. 87-VII (shall be enforced ten calendar days after the date of its first official publication); dated 30.12.2021 No. 95-VII (shall be enforced ten calendar days after the date of its first official publication).



## **Article 102. Authorized body in regulation of foreign trade activities and its competence in state support for private entrepreneurship**

1. The authorized body in the field of regulation of foreign trade activity shall be the central executive body that carries out management in the field of development and promotion of exports of non-primary goods and services, as well as, within the limits provided for by the legislation of the Republic of Kazakhstan, intersectoral coordination in the field of regulation of foreign trade activity.

2. The authorized body in the field of regulation of foreign trade activity shall:

1) interact with the body conducting investigation on the issues of special protective, anti-dumping and countervailing measures;

2) submit proposals on initiating investigations prior to the application of special protective, anti-dumping and countervailing measures to the body conducting investigations;

3) coordinate the work of state bodies of the Republic of Kazakhstan on the issues of special protective, anti-dumping and countervailing measures;

4) form and coordinate proposals on the issues of special protective, anti-dumping and countervailing measures with the interested state bodies of the Republic of Kazakhstan;

5) develop regulatory legal acts on the issues of special protective, anti-dumping and countervailing measures;

6) interact with official bodies of other countries and international organizations;

7) excluded by Law of the RK No. 87-VII of 27.12.2021 (shall be enacted ten calendar days after the date of its first official publication).

8) excluded by Law of the RK No. 87-VII of 27.12.2021 (shall be enforced ten calendar days after the date of its first official publication).

9) excluded by Law of the RK No. 87-VII of 27.12.2021 (shall come into force ten calendar days after the date of its first official publication).

10) excluded by Law of the RK No. 87-VII of 27.12.2021 (shall go into effect ten calendar days after the date of its first official publication).

11) excluded by Law of the RK No. 87-VII of 27.12.2021 (shall take effect ten calendar days after the date of its first official publication).

12) develop and approve, within its competence, the measures on promotion of export, taking into account the international obligations of the Republic of Kazakhstan;

13) exercise other powers provided for by the laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Footnote. Article 102 as amended by the Law of the Republic of Kazakhstan No. 241-VI dated 02.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 25.06.2020 No. 347-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 02.01.2021 No. 399-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No.

87-VII of 27.12.2021 (shall be enacted ten calendar days after the date of its first official publication).

**Article 103. Competence of public authorities and local executive bodies in the area of state support for innovation activities**

Within their competence in the area of state support for innovation activities, public authorities and local executive bodies shall:

- 1) take part in the formation and implementation of state policy in the area of state support for innovation activities;
- 2) participate in the formation and implementation of the national technology policy;
- 3) submit proposals for the identification of technology competence centres, targeted technology programmes and the organisation of technology platforms in the areas they supervise for consideration by the Technology Policy Council;
- 4) provide information to the competent authority for state support for innovation activities on the implementation of state support for innovation activities, as well as on the achievement of innovation development indicators;
- 5) propose to the competent authority for state support for innovation activities the identification of priority areas for the provision of innovation grants;
- 6) enforce the documents of the State Planning System in the Republic of Kazakhstan;
- 7) exercise other powers stipulated by this Code, the laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

**Footnote. Article 103 as reworded by Law of the RK No. 87-VII of 27.12.2021 (shall come into force ten calendar days after the date of its first official publication).**

**Article 104. Competence of other state bodies in state support for private entrepreneurship**

State bodies, within their competence, in state support of private entrepreneurship:

- 1) participate in the formation and implementation of state policy in state support for private entrepreneurship;
- 2) exercise other powers provided for by this Code, other laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

**Article 105. Competence of local executive bodies in state support and development of private entrepreneurship**

1. Local executive bodies of the Republic of Kazakhstan:
  - 1) implement the state policy of support and development of private entrepreneurship;
  - 2) create conditions for the development of private entrepreneurship;
    - 2-1) conduct an analysis of the business environment, investment climate and infrastructure for the development of private entrepreneurship;
  - 3) ensure and bear responsibility for the implementation and execution of state programs in the regions;

4) ensure the creation and development in the region of infrastructure facilities to support small-sized and medium-sized business entities and innovation activities;

5) determine the strategy for the development of relations between local executive bodies and associations of private entrepreneurs, the National Chamber and market infrastructure facilities;

6) organize the activities of expert councils;

7) provide state support for private entrepreneurship at the local level;

8) organize education, training, retraining and advanced training of specialists and personnel for small-sized and medium-sized business entities;

8-1) carry out, within their competence, the promotion of non-oil exports;

8-2) create conditions, within their competence, for the development of non-resource export;

8-3) carry out the development of national and territorial clusters;

9) carry out in the interests of local government other powers assigned to local executive bodies by the legislation of the Republic of Kazakhstan.

2. Excluded by Law of the RK No. 87-VII of 27.12.2021 (shall be enacted ten calendar days after the date of its first official publication).

Footnote. Article 105 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication); No. 243-VI dated 03.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 25.06. 2020 No. 347-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 87-VII of 27.12.2021 (shall be enforced ten calendar days after the date of its first official publication); dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

## **SECTION 3. FORMS AND MEANS OF GOVERNMENTAL REGULATION OF ENTREPRENEURSHIP Chapter 9. PERMITS AND NOTIFICATIONS**

### **Article 106. State regulation in permits and notifications**

State regulation in permits and notifications consists in the introduction of a permitting or notification procedure for business entities to carry out certain types of activities or actions in accordance with this Code and the Law of the Republic of Kazakhstan on Permits and Notifications.

### **Article 107. Hazard levels of a regulated activities or actions (operations)**

1. The permissive or notification procedure is introduced depending on the level of danger facing the implementation of the activities or actions (operations) and is divided into the following levels:

1) permits of the first category - licenses that are entered in relation to the types (subtypes) of the activities or actions (operations) associated with a high level of danger;

2) permissions of the second category - all permits that are not licenses entered in relation to the types (subtypes) of the activities or actions (operations) associated with the average level of danger;

3) notifications are implemented regarding the kinds of activities or actions associated with a low level of danger, but requiring the receipt of information on the commencement or termination of such activities or such actions by state bodies.

2. The hazard levels of the activities or actions (operations) are established on the basis of the analysis of the regulatory impact conducted in accordance with Article 83 of this Code.

**Footnote. Article 107 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).**

### **Article 108. Permitting and notification procedure**

1. To start and subsequently carry out certain types of activities or actions (operations), business entities must have a valid permit or send a notification to the state authorities that receive notifications in the manner prescribed by the Law of the Republic of Kazakhstan "On Permits and Notifications".

An entrepreneur that has a license is recognized as a licensee.

A entrepreneur that has a valid permission of the second category is the owner of the permission of the second category.

2. The implementation by business entities of activities or actions (operations) for which the Law of the Republic of Kazakhstan "On Permits and Notifications" establishes an authorization or notification procedure without obtaining a relevant permit or without sending a corresponding notification is not allowed.

The permission must be obtained by business entities and be valid, and the notification must be sent by the entrepreneur prior to the start of the activities or action (operation) in respect of which the Law of the Republic of Kazakhstan "On Permits and Notifications" establishes an authorization or notification procedure.

3. Establishment by the Law of the Republic of Kazakhstan "On Permits and Notifications" of an authorization or notification procedure is made depending on the level of danger of an activities or action (operation) in order to protect human life and health, the environment, property, national security and law and order.

4. Exhaustive lists of permits and notifications are provided for by the Law of the Republic of Kazakhstan on Permits and Notifications.

5. The issuance, extension, re-registration, renewal and implementation of other actions prescribed by the legislation of the Republic of Kazakhstan with regard to permits, as well as annexes thereto, are public services and are not subject to the Law of the Republic of Kazakhstan "On Permits and Notifications", are regulated by the Law of the Republic of Kazakhstan "On government services".

## **Article 109. The procedure for the introduction and cancellation of the permit or notification procedure**

1. An authorization or notification procedure is implemented only by including the relevant permission or notification in the lists of permits or notifications provided for in Annexes 1, 2 and 3 to the Law of the Republic of Kazakhstan “On Permits and Notifications”

2. In order to implement a permit or notification procedure, regulatory authorities must first conduct a regulatory impact analysis procedure in accordance with Article 83 of this Code.

3. When implementing a permit procedure in relation to an activities or action (operation) that was not previously subject to the permitting procedure, the obligation to obtain a permit arises from the entrepreneur carrying out the activities or action (operation) from the date of enactment of the regulatory legal act regulating the procedure for obtaining the permit and (or ) establishing the requirements for obtaining permission.

4. Regulatory legal acts regulating the procedure for obtaining a permit, approving permit or qualification requirements and (or) a list of documents confirming the applicants' compliance with such requirements, cannot be put into effect until the expiration of sixty calendar days after the day of their first official publication.

In the case of implementing a permit procedure for activities or actions (operations) that were not previously subject to a permitting procedure, applicants are may to apply for a permit prior to the enactment of regulatory legal acts regulating the procedure for obtaining a permit approving the permitting or qualification requirements, and (or) a list of documents confirming applicants' compliance with such requirements, but no later than five working days before the enactment of these acts.

At the same time, the issuance of permits or motivated refusals to issue them on applications filed in accordance with part two of this clause must be carried out by the permitting authorities after the regulatory legal acts referred to in part one of this clause come into effect in the timeframe and procedure established for their issuing.

5. Applicants who have applied for a permit in accordance with paragraph 4 of this article are may, prior to issuing a permit or a reasoned refusal to issue it, to carry out an activities or action (operation) in respect of which an authorization procedure has been introduced, without a permit, except in cases established by the Law of the Republic of Kazakhstan "On Permits and Notifications".

6. Cancellation of the permit or notification procedure is carried out by excluding the permission or notification from the lists of permits and notifications provided for in Annexes 1, 2 and 3 to the Law of the Republic of Kazakhstan “On Permits and Notifications”, and entails the right of an enterprise to undertake an activities or action (operation ) without permission or notice.

Footnote. Article 109 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication); dated 12.03.2021 No. 15-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

#### **Article 110. Applicants. Applicants' rights**

1. Applicants can be the following business entities that applied to the appropriate licensing authority for licensing or the authorization procedure or sent a notification:

- 1) individual entrepreneur;
- 2) a legal entity;
- 3) a branch or representative office of a legal entity;
- 4) licensee;
- 5) the owner of the permission of the second category.

2. Applicants have the right to:

- 1) receive complete and accurate information about permissions and notifications;

The procedure for the introduction of subparagraph 2) see paragraph 6 of Article 324 of the Code of the Republic of Kazakhstan dated 10.29.2015 No. 375-V.

2) to appeal against decisions, actions (inactions) of permitting authorities and state bodies that receive notifications, and (or) their officials, the Government-to-Citizens State Corporation and (or) its employees on licensing and permitting procedures or gaining notifications in accordance with the legislation of the Republic of Kazakhstan;

3) select an electronic or paper application form for obtaining a permit and (or) annex to it or sending a notification, and also choose an electronic or paper form of the issued permit and (or) annex to it, taking into account the provisions of Article 48 of the Law of the Republic of Kazakhstan "On Permits and notifications".

3. Oralmans and foreign legal entities receive permits and send notifications on a par with citizens and legal entities of the Republic of Kazakhstan, unless otherwise provided for by the laws of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan.

#### **Article 111. Rights and obligations of the permitting authorities**

1. Licensing authorities are licensors and authorities authorized to issue permits of the second category.

2. Licensing authorities, within their competence, have the right to request government bodies for information necessary for the implementation of a licensing or permit procedure, including through information systems.

3. Licensing authorities are obliged:

1) to carry out licensing and authorization procedures in accordance with this Code and the Law of the Republic of Kazakhstan "On Permits and Notifications";

2) to create the necessary conditions for persons with disabilities when they receive permits;

3) to provide in an accessible form complete and reliable information on licensing, authorization procedures, the list of required documents and the procedure for obtaining and processing such documents;

The procedure for the introduction of subparagraph 4), see paragraph 7 of Article 324 of the Code of the Republic of Kazakhstan dated 10.29.2015 No. 375-V.

4) to provide state bodies and the State Corporation for Citizens with documents and (or) information necessary for the implementation of licensing and authorization procedures, including through information systems;

5) to take measures aimed at restoring the violated rights, freedoms and legitimate interests of applicants, licensees and holders of permits of the second category;

6) within their competence, to ensure the smooth functioning and filling of information systems containing the necessary information for issuing permits;

7) to obtain the written consent of applicants, licensees and holders of permits of the second category, including in the form of an electronic document, to use personal data of limited access, constituting a secret protected by law, contained in information systems when issuing permits, unless otherwise provided for by the laws of the Republic of Kazakhstan.

#### **Article 112. Implementation of licensing, authorization procedures and electronic notifications**

1. Licensing and sending of notifications shall be carried out in electronic form using the state information system of permits and notifications and the state electronic register of permits and notifications.

Permitting procedures are carried out in electronic form using the state information system of permits and notifications and the state electronic register of permits and notifications subject to the provisions of paragraph 3 of Article 52 of the Law of the Republic of Kazakhstan "On Permits and Notifications".

2. The procedure for filing an application, issuing permits and (or) annexes to a permit is regulated by the Law of the Republic of Kazakhstan on Permits and Notifications.

3. The state electronic register of permits and notifications is maintained by the permitting authorities on an ongoing basis.

The state electronic register of permits and notifications of notifications is maintained by state bodies that receive notifications, in cases provided for by the legislation of the Republic of Kazakhstan.

#### **Chapter 9-1. INFORMATION INSTRUMENTS**

Footnote. Section 3 is supplemented by Chapter 9-1 in accordance with the Law of the Republic of Kazakhstan No. 156-VI dated 24.05.2018 (shall be enforced upon expiry of six months after its first official publication).

#### **Article 112-1. Data tools**

1. Data tools shall refer to the requirements to provide information to public authorities or other persons as set out in the laws of the Republic of Kazakhstan, meeting all of the following criteria at the same time:

- 1) the provision of data is compulsory;
- 2) failure to provide data entails liability in obedience to the laws of the Republic of Kazakhstan;
- 3) data is provided by private businesses.

2. Following the enactment of the laws of the Republic of Kazakhstan providing for the introduction of data tools, the regulatory authority shall initiate supplements to the list of data tools, as well as to the register of requirements.

3. Information tools are provided in electronic form using information systems or on paper. The method of providing an information tool is determined by the subject of private entrepreneurship.

At the same time, it is prohibited to require the provision of information tools for which automation of their provision will not be implemented and ensured.

4. The provisions of this chapter shall not apply to data tools available in the field of tax, customs, financial policy, statistical activities, as well as covering a single regulator.

For the purposes of this Chapter, financial policy shall mean the totality of relations related to the activities of financial organisations, branches of banks - non-residents of the Republic of Kazakhstan, branches of insurance (reinsurance) organisations - non-residents of the Republic of Kazakhstan, branches of insurance brokers - non-residents of the Republic of Kazakhstan, insurance market participants that are not financial institutions, collection agencies, major participants in financial institutions, issuers of equity securities, credit bureaus, persons belonging to insurance groups and banking conglomerates, payment services market entities, with regulation of currency legal relations, provision of financial services as well as issuance, circulation, redemption and cancellation of financial instruments.

**Footnote. Article 112-1 as reworded by Law of the RK No. 95-VII of 30.12.2021 (see Art . 2 for the enactment procedure).**

#### **Article 112-2. Types of information instruments**

**Footnote. Article 112-2 is excluded by Law of the RK No. 95-VII of 30.12.2021 (shall be enacted ten calendar days after the date of its first official publication).**

#### **Article 112-3. Features for introduction of information instruments**

**Footnote. Article 112-3 is excluded by Law of the RK No. 95-VII of 30.12.2021 (shall go into effect ten calendar days after the date of its first official publication).**

### **Chapter 10. TECHNICAL REGULATION**

#### **Article 113. State regulation in the field of technical regulation**

State regulation in the field of technical regulation consists in the establishment and implementation of mandatory requirements for products, including buildings and structures,



design processes (including surveys), production, construction, installation, commissioning, operation, storage, transportation, sale and disposal related to the requirements for products, application on a voluntary basis of requirements for products, processes and rendering services, conformity assessment and state control and supervision in accordance with this Code and the legislation of the Republic of Kazakhstan in the field of technical regulation.

**Footnote. Article 113 is in the wording of the Law of the Republic of Kazakhstan dated 30.12.2020 No. 397-VI (shall be enforced upon expiry of six months after the date of its first official publication).**

#### **Article 114. Objects of technical regulation**

The objects of technical regulation shall be:

products, with the exception of civil aviation products, products used to protect information constituting a state secret (state secrets) or related to other information of restricted access protected in accordance with the law, products, information about which constitutes a state secret (state secrets), products, for which requirements shall be established related to ensuring safety in the field of atomic energy use, previously used products, veterinary drugs, medicines, medical devices (medical products and medical equipment);

the processes of design (including surveys), of production, construction, installation, commissioning, operation, storage, transportation, sale and disposal related to product requirements;

services in terms of voluntary certification, with the exception of services in the field of veterinary medicine, plant protection and quarantine, state, medical, educational, financial, banking and other services, the regulation of which is established by other laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

**Footnote. Article 114 is in the wording of the Law of the Republic of Kazakhstan dated 30.12.2020 No. 397-VI (shall be enforced upon expiry of six months after the date of its first official publication).**

#### **Article 115. Subjects of technical regulation**

The subjects of technical regulation shall be state bodies, as well as individuals and legal entities carrying out their activity on the territory of the Republic of Kazakhstan and having the right to use the objects of technical regulation in accordance with the civil legislation of the Republic of Kazakhstan.

**Footnote. Article 115 as amended by the Law of the Republic of Kazakhstan dated 30.12.2020 No. 397-VI (shall be enforced upon expiry of six months after the date of its first official publication).**

### **Chapter 11. STATE REGULATION OF PRICES AND RATES**

#### **Article 116. State regulation of prices and tariffs of entrepreneurs**

1. Prices and tariffs for goods, works, services are determined by business entities on their own, with the exception of cases provided for in this Code.

2. The state establishes the regulation of prices and tariffs in order to ensure national security, protect public order, human rights and freedoms, and public health in the Republic of Kazakhstan.

3. The state regulates prices and tariffs for the following goods, works, services of entrepreneurs:

1) for socially important food products;

2) for goods, works, services in natural monopoly;

3) for goods, works and services produced and sold by state monopoly and special right entities;

4) for goods (works, services) in respect of which state price regulation has been introduced;

5) for goods, works, services in international business transactions and transactions related to international business transactions arising from transfer pricing;

6) for the retail sale of petroleum products through stationary gas stations for which state price regulation has been established, and wholesale sales of petroleum products for stationary gas stations for which state price regulation has been established;

6-1) approval of marginal prices for medicinal products;

7) for the establishment of minimum prices for special vodkas and vodkas, vodkas with a protected appellation of origin, spirits, cognac and brandy;

8) for the establishment of minimum retail prices for filtered and unfiltered cigarettes, cigarettes, cigarillos and heated tobacco products;

9) in commodity markets that are not in a state of natural monopoly, in certain cases, including emergency situations, natural disasters, national security, provided for that the problems that have arisen cannot be solved in a way that has less negative consequences for the state of competition;

10) for commercial and liquefied petroleum gas;

11) approval of the prices of raw and commercial gas purchased by the national operator within the framework of the pre-emptive right of the state;

12) approval of tariffs for energy producing organizations;

13) on subsidized services;

14) in socially significant markets.

**Footnote. Article 116 as amended by the Law of the Republic of Kazakhstan dated 29.03.2016 No. 479-V (shall be enforced upon the expiry of twenty one calendar day after the date of its first official publication); dated 09.04.2016 No. 499-V (shall be entered into force upon the expiry of ten calendar days after the day of its first official publication); dated 28.12.2016 No. 34-VI (shall be enforced from 01.01.2017); dated 25.12.2017 No. 122-VI ( shall be enforced from 01.01.2018); dated 04.07.2018 No. 173-VI (shall be entered into force**

upon the expiry of ten calendar days after the day of its first official publication); No. 211-VI dated 28.12.2018 (shall be enforced upon expiry of three months after its first official publication); No. 297-VI dated 30.12.2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication); No. 95-VII of 30.12.2021 (shall come into force sixty calendar days after the date of its first official publication); No. 96-VII of 30.12.2021 (shall be enforced sixty calendar days after the date of its first official publication) ; No. 100 of 31.12.2021 (shall take effect on 01.03.2022); No. 101-VII of 03.01.2022 (shall be enacted on 01.07.2022); dated 30.12.2022 No. 177-VII (shall be enforced sixty calendar days after the date of its first official publication); dated 29.06.2023 No. 13-VIII (shall be enforced ten calendar days after the date of its first official publication).

#### **Article 117. Pricing for socially important food products**

1. The authorized body in the field of regulation of trading activities approves the list of socially significant food products in coordination with the authorized body in the field of social protection of the population.

The threshold values of retail prices for socially important food products, the size of the maximum permissible retail prices for socially important food products are approved by local executive bodies.

The threshold value of retail prices for socially important food products is the permissible level of retail prices, established in order to prevent unreasonable price increases, to keep inflation within acceptable limits and to ensure macroeconomic stability in the country to which an entrepreneur has the right to determine retail prices for socially important food products.

The maximum allowable retail prices for socially important food products are recognized as the level of retail prices set by local executive bodies in the event that the threshold values of retail prices for socially important food products are exceeded.

2. When concluding contracts for the supply of socially important food products, the size of the marginal markup must be established on a mandatory basis. A transaction made in violation of this requirement is not valid.

3. In case of exceeding the threshold values of retail prices for socially important food products in the region, the city of republican status, the capital, the local executive body, after consulting with the subjects of trading activities, has the right to set the size of the maximum allowable retail prices for them in the region, city of republican status, the capital for a period of not more than ninety calendar days.

**Footnote.** Article 117 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication); dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

#### **Article 118. Formation of tariffs for regulated services of natural monopoly entities**

1. Formation of tariffs for regulated services of natural monopoly entities shall be carried out in accordance with the legislation of the Republic of Kazakhstan on natural monopolies.

2. Natural monopoly shall be the state of market for goods, works and services, in which the creation of competitive conditions to meet the demand for a certain type of goods, works and services shall be impossible or economically inexpedient due to the technological features of production and provision of this type of goods, works and services.

**Footnote. Article 118 is in the wording of the Law of the Republic of Kazakhstan No. 243 -VI dated 03.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication).**

**The order of entry into force of Article 119, see paragraph 9 of Article 324 of the Code of the Republic of Kazakhstan dated 10.29.2015 No. 375-V.**

### **Article 119. State Price Regulation**

As a temporary measure for a certain period on the territory of the Republic of Kazakhstan, in the order determined by the antimonopoly authority, state price regulation may be introduced in certain commodity markets and (or) for goods (works, services) of individual market entities.

**Footnote. Article 119 as amended by the Law of the Republic of Kazakhstan dated 01.07.2022 No. 131-VII (shall be enforced from 01.07.2022).**

### **Article 120. Pricing of goods produced and sold by state monopoly and special right entities**

1. Pricing rules for goods produced and sold by a state monopoly and special right entity shall be adopted by the anti-monopoly authority.

The designated public authorities shall hold public hearings when considering applications by state monopoly and special right entities, in conformity with the rules referred to in the first part of this paragraph.

2. The anti-monopoly authority shall examine the prices of goods produced and sold by a state monopoly and special right entity in line with the rules referred to in the first part of paragraph 1 hereof.

3. For the purpose of the examination of prices for goods, state monopoly, and special right entities shall be obliged to provide in writing:

1) information on selling prices, with supporting evidence of the price level, no later than thirty calendar days from the day the state monopoly or special right to goods is introduced;

2) at least thirty calendar days' notice of an impending change (increase and/or decrease) in the price of goods and the grounds for the change (increase and/or decrease), with supporting material to substantiate the grounds for the change (increase and/or decrease).

4. The time limit for the examination of prices for goods shall not exceed ninety calendar days from the date of receipt of the notification or information for examination. The total period of examination shall not exceed one hundred and twenty calendar days.

5. During the consideration of a notification or information, the antimonopoly authority may request, within the time limits established by this Code, additional information and/or documents necessary for taking a decision from the state monopoly and special right entity.

6. While additional information and/or documents are being submitted, consideration of the notification or information shall be suspended until the state monopoly or special right entity submits the relevant additional information and/or documents.

7. The antimonopoly authority shall resume consideration of the notification or information upon submission of additional information and/or documents by the state monopoly or special right entity.

8. The calculation of the deadline for the examination of prices for goods shall proceed from the date of resumption of the examination.

**Footnote. Article 120 as reworded by Law of the Republic of Kazakhstan No. 101-VII of 03.01.2022 (shall take effect on 01.07.2022).**

#### **Article 120-1. Pricing in socially significant markets**

Pricing in socially significant markets is carried out in accordance with the pricing rules in socially significant markets, approved by the authorized body that manages natural monopolies.

**Footnote. The Code is supplemented by Article 120-1 in accordance with the Law of the Republic of Kazakhstan dated 28.12.2016 No. 34-VI (shall be enforced from 01.01.2017).**

#### **Article 121. Regulation of prices for goods, works, services in international business operations and transactions related to international business operations**

1. In the Republic of Kazakhstan, the regulation of prices for goods, works, services in international business operations and transactions related to international business operations arising from transfer pricing is carried out in accordance with the Law of the Republic of Kazakhstan on Transfer Pricing.

2. The transfer price (transfer pricing) is the price that is formed between the interrelated parties and (or) differs from the objectively emerging market price with regard to the price range when making transactions between independent parties and is subject to control in accordance with the Law of the Republic of Kazakhstan "On Transfer Pricing".

3. International business operations are export and (or) import transactions for the sale of goods; transactions for the performance of work, the provision of services, one of the parties to which is a non-resident operating in the Republic of Kazakhstan without a permanent establishment; transactions of residents of the Republic of Kazakhstan, committed outside the territory of the Republic of Kazakhstan, for the sale and purchase of goods, the performance of work, and the provision of services.

**Article 122. Pricing for retail sale of petroleum products through stationary gas stations for which state price regulation has been established, and for wholesale sales of petroleum products for stationary gas stations for which state price regulation has been established**

1. The state regulates prices for the retail sale of petroleum products through stationary gas stations and for the wholesale sale of petroleum products intended for sale at stationary gas stations, in accordance with the legislation of the Republic of Kazakhstan on state regulation of production and turnover of certain types of petroleum products.

2. The authorized body in the field of production of petroleum products, in coordination with the authorized body exercising management in the field of natural monopolies, in accordance with the procedure approved by the authorized body in the field of production of petroleum products, sets the maximum prices for the retail sale of petroleum products through stationary gas stations for which state price regulation is established, and for the wholesale sale of petroleum products intended for sale at stationary gas stations where state regulation of prices is established.

3. Retail sellers of petroleum products when selling petroleum products through stationary gas stations are obliged not to exceed the established marginal prices for the retail sale of petroleum products through stationary gas stations, for which state price regulation is established.

Wholesale sellers of petroleum products for stationary gas stations are obliged not to exceed the established marginal prices for the wholesale sale of petroleum products, for which state price regulation is established.

4. In the case of state regulation of prices for the retail sale of petroleum products through stationary gas stations and for the wholesale sale of petroleum products intended for sale at stationary gas stations, marginal prices are set no more than once a month.

**Footnote. Article 122 as amended by the Law of the Republic of Kazakhstan dated 30.12.2022 No. 177-VII (shall be enforced sixty calendar days after the date of its first official publication).**

#### **Article 122-1. Approval of marginal prices for medicinal products**

1. The state shall approve marginal prices for medicinal products in accordance with the legislation of the Republic of Kazakhstan for health care.

2. The state control over compliance with the procedure for pricing medicinal products shall be carried out by the authorized agency for health care in the manner established by the legislation of the Republic of Kazakhstan for health care.

**Footnote. Chapter 11 is supplemented by Article 122-1 in accordance with the Law of the Republic of Kazakhstan No. 211-VI dated 28.12.2018 (shall be enforced upon expiry of three months after its first official publication).**

#### **Article 123. Establishment of minimum retail prices for special vodkas and vodkas, vodkas with protected appellation of origin, spirits, cognac and brandy**

The state shall establish minimum retail prices for special vodkas and vodkas, vodkas with a protected appellation of origin, strong liqueur and vodka products, cognac and brandy in observance of the legislation of the Republic of Kazakhstan on state regulation of production and turnover of ethyl alcohol and alcoholic products.

Footnote. Article 123 - as reworded by Law of the RK No. 100 of 31.12.2021 (shall be enforced on 01.03.2022).

**Article 124. Establishment of minimum retail prices for filtered and unfiltered cigarettes, cigarettes, cigarillos and heated tobacco products**

The state shall set minimum retail prices for filtered and unfiltered cigarettes, cigarettes, cigarillos and heated tobacco products in obedience to the legislation of the Republic of Kazakhstan on state regulation of production and turnover of tobacco products.

Footnote. Article 124 as reworded by Law of the RK No. 95-VII of 30.12.2021 (shall be enacted upon expiration of sixty calendar days after its first official publication).

**Article 124-1. Pricing for commercial and liquefied petroleum gas**

1. The state regulates prices for commercial and liquefied petroleum gas in accordance with the legislation of the Republic of Kazakhstan on gas and gas supply.

2. The central executive body that carries out state regulation of production, transportation (carriage), storage and wholesale sales of gas, as well as retail sales and consumption of commercial and liquefied petroleum gas, in cases and in the manner determined by it in coordination with the authorized body exercising management in the natural monopoly areas, shall set maximum prices for the wholesale sale of commercial gas on the domestic market, as well as maximum prices for the wholesale and retail sales of liquefied petroleum gas within the supply plan outside commodity exchanges.

3. Persons selling commercial gas or liquefied petroleum gas within the supply plan shall not exceed the established maximum prices.

Footnote. Chapter 11 is supplemented by Article 124-1 in accordance with the Law of the Republic of Kazakhstan dated 29.03.2016 No. 479-V (shall be enforced upon twenty-one calendar days after the day of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 29.06.2023 No. 13-VIII (shall be enforced ten calendar days after the date of its first official publication).

**Article 124-2. Approval of prices of raw and commercial gas purchased by the national operator under the pre-emptive right of the state**

Footnote. Title as amended by the Law of the Republic of Kazakhstan dated December 30, 2022 No. 177-VII (shall be enforced ten calendar days after the day of its first official publication).

The State approves the prices of raw and commercial gas purchased by the national operator under the pre-emptive right of the state, in accordance with the legislation of the Republic of Kazakhstan on gas and gas supply.

Footnote. Chapter 11 is supplemented by Article 124-2 in accordance with the Law of the Republic of Kazakhstan dated 29.03.2016 No. 479-V (shall be entered into force upon the expiry of twenty one calendar days after the day of its first official publication); as reworded by Law of the Republic of Kazakhstan No. 297-VI dated 30.12.2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication); as amended by No.

177-VII dated 30.12.2022 (shall be enforced ten calendar days after the date of its first official publication).

### **Article 124-3. Tariff formation of energy producing organizations**

The tariff formation of energy-producing organizations is carried out in accordance with the legislation of the Republic of Kazakhstan on the electric power industry.

Footnote. Chapter 11 is supplemented by Article 124-3 in accordance with the Law of the Republic of Kazakhstan dated 29.03.2016 No. 479-V (shall be entered into force upon the expiry of twenty one calendar days after the day of its first official publication).

### **Article 124-4. Regulation of prices for subsidized services**

The state regulates the prices of subsidized services in mail, communication and transportation in accordance with the legislation of the Republic of Kazakhstan on mail, communication, road transport and rail transport.

Footnote. Chapter 11 is supplemented by Article 124-4 in accordance with the Law of the Republic of Kazakhstan dated 09.04.2016 No. 499-V (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).

### **Chapter 11-1. Socially significant markets**

Footnote. The Code is supplemented by Chapter 11-1 in accordance with the Law of the Republic of Kazakhstan dated 28.12.2016 No. 34-VI (shall be enforced from 01.01.2017).

### **Article 124-5. Socially significant markets**

1. State regulation of prices applies to goods (works, services) of subjects of socially significant markets in the following areas:

Subparagraph 1) was valid until 01.01.2020 - Law of the Republic of Kazakhstan dated 30.11.2016 No. 26-VI.

1) retail sale of electric energy by energy supplying organizations;

2) organizing and conducting centralized trade in electric energy, ensuring the readiness of the trading system for centralized bidding, centralized purchase and sale of electric energy by a single buyer of electric energy in terms of the costs of a single buyer of electric energy related to the implementation of its activities, centralized purchase of services to maintain the availability of electric power and centralized sale of services to ensure the availability of electric power to bear the burden of a single buyer in terms of the costs of a single buyer, related to the implementation of its activities;

Subparagraph 3) was valid until 01.01.2020 - Law of the Republic of Kazakhstan dated 30.11.2016 No. 26-VI.

3) retail sales of commercial gas, retail sales of liquefied petroleum gas through group tank installations;

Subparagraph 4) was valid until 01.01.2020 - Law of the Republic of Kazakhstan dated 30.11.2016 No. 26-VI.

4) provision of airport services on domestic flights: embarkation and disembarkation of passengers (by means of a telescopic gangway), lease of airport premises used to ensure the



transportation process, cargo handling, provision of a workplace (area) for passenger registration, provision of aircraft with aviation fuel - lubricants;

**Subparagraph 5) was valid until 01.01.2020 - Law of the Republic of Kazakhstan dated 30.11.2016 No. 26-VI.**

5) provision of services for the carriage of goods by rail and locomotive traction, with the exception of:

services for the leasing of railway freight cars and services of the operator of cars (containers);

services for the carriage of goods by rail in transit traffic through the territory of the Republic of Kazakhstan;

services for the transportation of goods in containers, piggyback shipments, empty containers and empty fitting platforms by rail.

2. State regulation of prices in the areas specified in subparagraphs 1) and 3) of paragraph 1 of this article shall apply to market entities whose state regulation of prices and state control over pricing were carried out before January 1, 2017.

3. State regulation of prices in the areas indicated in subparagraphs 1) and 3) of paragraph 1 of this article also applies to market entities that in total meet the following conditions:

1) after January 1, 2017 provide services to consumers who were previously provided for with services by regulated market entities whose state regulation of prices and state control over pricing was carried out before January 1, 2017;

2) the volume of services rendered to consumers specified in subparagraph 1) of this paragraph is thirty-five or more percent of the volume of services of a market entity, the state regulation of prices and state control over pricing of which were carried out before January 1, 2017.

4. The authorized agency managing for natural monopolies, in exercising state control over compliance with the pricing procedure and obligations of entity of socially significant market shall coordinate with law enforcement agencies within the competence established by the legislation of the Republic of Kazakhstan.

**Footnote. Article 124-5 as amended by the Law of the Republic of Kazakhstan dated 24.05.2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication); No. 241-VI dated 02.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 19.04.2023 No. 223-VII (shall be enforced from 01.07.2023).**

#### **Article 124-6. Competence of the authorized body exercising leadership in the areas of natural monopolies in socially significant markets**

Authorized body exercising leadership in the areas of natural monopolies:

1) develops proposals for the formation of state policy in socially significant markets;

2) carries out state regulation of prices and state control over the observance of the pricing procedure and the obligations of the subject of the socially significant market;

- 3) develops and approves pricing rules for socially significant markets;
- 4) monitors the prices of subjects of socially significant markets;
- 5) coordinates the marginal prices for goods (works, services) sold by subjects of socially significant markets;

5-1) reduces the marginal prices of goods (works, services) sold by entities of socially significant markets in the amount of income received in connection with:

non-fulfillment of investment program measures accounted in marginal prices;  
non-use of funds for purchase and (or) transmission of electrical energy, commercial gas, accounted in marginal prices;

exceeding the volume for consumption of goods (works, services), including individual groups of consumers, accounted in marginal prices;

exceeding the marginal price of goods (works, services) agreed upon by the authorized agency managing for natural monopolies;

6) conducts public hearings when considering notifications of subjects of socially significant markets about the upcoming price increases for goods (works, services);

7) make mandatory to the subject of the socially significant market instructions for the execution of its obligations under this Code;

8) in the event that a subject of a socially significant market fails to comply with the prescription, it will file a lawsuit in court to force the subject of the socially significant market to perform the actions specified in the prescription;

9) initiates and examines cases of administrative offenses, as well as imposes administrative penalties in the manner established by the Administrative Offenses Code of the Republic of Kazakhstan;

10) requests and receives information necessary for the exercise of its powers from the subjects of socially significant markets in compliance with the requirements established by the legislative acts of the Republic of Kazakhstan for disclosing information constituting commercial and other secrets protected by law;

**10-1) It was valid until 01.01.2022 by the Law of the Republic of Kazakhstan dated 12.27.2019 No. 295-VI.**

10-2) develops and approves the rules for calculating and paying the temporary balancing fee provided for by the legislation of the Republic of Kazakhstan on railway transport, in coordination with the central executive body in charge of railway transport;

11) exercises other powers provided for by this Code, the laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

**Footnote. Article 124-6 as amended by the Law of the Republic of Kazakhstan No. 241-VI dated 02.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 295-VI dated 27.12.2019 (the order of enforcement see Article 2); dated 29.12.2022 No. 174-VII (shall be enforced from 01.01.2022 and valid until 01.01.2024).**

**Article 124-7. State regulation of prices and state control over compliance with the pricing procedure and the obligations of the subject of the socially significant market**

1. State regulation of prices and state control over the observance of pricing procedures and obligations of a subject of a socially significant market are carried out in order to protect the interests of consumers and subjects of socially significant markets.

2. The subject of a socially significant market is an individual or legal entity that produces (sells) goods (works, services) in socially significant markets.

3. The state control over compliance with the procedure for pricing and obligations of entity of socially significant market shall be carried out by the authorized agency managing for natural monopolies, in the manner established by this Code and the rules of pricing for socially significant markets.

**Footnote. Article 124-7 as amended by the Law of the Republic of Kazakhstan No. 241-VI dated 02.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication).**

**Article 124-8. Obligations of the subject of socially significant market**

The subject of the socially significant market is obliged:

1) to submit to the authorized body exercising leadership in the areas of natural monopolies the following information:

monthly information on the volumes of production (sales), the level of profitability and selling prices of the produced (realized) goods (works, services) in the form approved by the authorized body exercising leadership in the fields of natural monopolies, no later than the last day of the month following the reporting month;

quarterly financial statements in accordance with the legislation of the Republic of Kazakhstan on accounting and financial reporting no later than the last day of the month following the reporting quarter;

not later than August 1 of the current calendar year and May 1 of the next calendar year, information on the results of the half year, year on performance or non-performance of the investment program, considered in marginal price, in the form approved by the authorized agency managing for natural monopolies;

information necessary for price examination, in electronic form within the terms established by the authorized agency managing for natural monopolies, which shall not be less than five working days from the date of receipt the relevant requirement by entity of socially significant market;

information on selling prices with justifying materials confirming the price level, not later than thirty calendar days from the date of introduction the state regulation of prices or from the date of the start production (sale) of goods, works, services, or not less than thirty calendar days before the upcoming increase in selling price for goods, work, services;

a half year information on use of funds for purchase and (or) transmission of electric energy, commercial gas, accounted in marginal price, with attachment of supporting materials

not later than the twenty fifth day of the month following the reporting period, except for entities of socially significant markets specified in subparagraphs 2 ), 4) and 5) of Paragraph 1 of Article 124-5 of this Code;

2) to provide information on upcoming price increases for goods (works, services) above the marginal price and the reasons for their increase with the submission of supporting materials confirming the reasons to the authorized agency managing for natural monopolies, in electronic form, not less than for thirty calendar days;

3) comply with the procedure for pricing in socially significant markets;

4) execute measures of the investment program (project), taken into account in marginal prices in accordance with the procedure for pricing in socially significant markets;

4-1) to place in mass media in the manner determined by the authorized agency managing for natural monopolies:

a half year information on use of funds for purchase and (or) transmission of electric energy, commercial gas, accounted in marginal price, not later than the twenty fifth day of the month following the reporting period, except for entities of socially significant markets specified in subparagraphs 2 ), 4) and 5) of Paragraph 1 of Article 124-5 of this Code;

a half year information on income received as a result of the excess consumption of goods (work, services), including individual groups of consumers, accounted in marginal price, not later than the twenty-fifth day of the month following the reporting period;

a half year information on performance or non- performance of the investment program accounted in marginal price, not later than the twenty-fifth day of the month following the reporting period;

information on increase in marginal prices for goods (works, services) and justifying materials not later than five working days from the date of its referral for approval to the authorized agency managing for natural monopolies;

5) return the income received and not used for the implementation of investment programs (projects) recorded in marginal prices directly to consumers or if it is impossible to establish a complete list of consumers by lowering the marginal price level for the upcoming period in accordance with the pricing procedure in socially significant markets;

6) return the income received as a result of an unjustified excess of the marginal price directly to consumers no later than thirty calendar days from the moment of the establishment of such a fact by the authorized body that manages natural monopolies, or by reducing the marginal price level for the upcoming period in accordance with the procedure for pricing socially significant markets if it is impossible to establish a complete list of consumers;

7) comply with the instructions of the authorized body exercising leadership in the areas of natural monopolies, within the terms established by the authorized body exercising leadership in the areas of natural monopolies, not exceeding thirty calendar days from the date of their receipt;

8) to place information on selling prices, on the results of public hearings and financial reporting on its Internet resource or Internet resource of the authorized agency managing for natural monopolies.

**Footnote. Article 124-8 as amended by the Law of the Republic of Kazakhstan No. 241-VI dated 02.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 243-VI dated 03.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication).**

**Article 124-9. Rights and obligations of a consumer of services (goods, works) of a subject of a socially significant market**

1. A consumer of services (goods, works) of a subject of a socially significant market is may to:

1) acquire services (goods, works) of a subject of a socially significant market in the manner and at prices not exceeding the marginal prices (charge rates) established by the authorized body exercising leadership in the areas of natural monopolies;

2) to appeal the actions (inaction) of the authorized body carrying out management in the areas of natural monopolies, as well as the decisions taken by it in the manner established by the laws of the Republic of Kazakhstan;

3) appeal to the authorized body exercising leadership in the areas of natural monopolies, and (or) in court the actions (inaction) of the subject of the socially significant market that contradict the legislation of the Republic of Kazakhstan;

4) participate in public hearings;

5) have other rights provided for by the legislation of the Republic of Kazakhstan.

2. A consumer of services (goods, works) of a subject of a socially significant market is obliged:

1) timely and fully pay for services (goods, works) of a subject of a socially significant market at prices not exceeding marginal prices (charge rates) established by the authorized body that manages natural monopolies;

2) fulfill the technical requirements established by the subject of the socially significant market in accordance with the legislation of the Republic of Kazakhstan.

**Footnote. Article 124-9 as amended by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 351-VI (shall be enforced from 01.07.2021).**

**Article 124-10. State control over compliance with the pricing procedures and obligations of entity of socially significant market**

1. The state control over compliance with the pricing procedures and obligations of entity of socially significant market shall be carried out in the form of verification and preventive control with a visiting the entity (object) subject to control by the authorized agency, managing for natural monopolies, and its territorial divisions or the authorized agency for civil aviation in accordance with this Code.

2. In exercising state control over compliance with the pricing procedures and obligations of entity of socially significant market, the following response measures shall be taken:

1) initiation of the case on administrative offence;

2) issuing the prescription on elimination the offence for the pricing procedure and obligations of entity of socially significant market;

3) transfer of materials to law enforcement and other authorities.

3. Preventive control without visiting the entity (object) subject to control shall be carried out in accordance with this Code.

Preventive control without visiting the entity (object) subject to control shall be carried out by the authorized agency managing for natural monopolies and its territorial divisions or by the authorized agency for civil aviation without visiting the entity (object) subject to control based on the analysis and data of information systems, open sources, mass media, as well as other information on the activities of the entity (object) subject to control.

4. The entities subject to control shall be entities of socially significant markets.

5. The objectives of preventive control without visiting the entity (object) subject to control shall be the timely suppression and prevention of violations, granting the entity (object) subject to control the right to independently eliminate violations identified by the results of preventive control without visiting the entity (object) subject to control and reducing the administrative burden on the entity subject to control.

For granting the right to independently elimination the violations to the entity subject to control, preventive control without visiting the entity (object) subject to control shall be carried out only for those violations whose consequences can be eliminated in accordance with the legislation of the Republic of Kazakhstan.

6. According to the results of preventive control without visiting the entity (object) subject to control, a recommendation on elimination of the identified violations shall be made without initiating the case on administrative offence with compulsory explanation of the procedure for its elimination to the entity subject to control.

7. The recommendation on elimination of the violations identified by the results of preventive control without visiting the entity (object) subject to control shall be delivered to the entity subject to control in person by hand or otherwise confirming the facts of sending and receiving.

The recommendation on elimination of the violations identified as a result of preventive control without visiting the entity (object) subject to control, directed by one of the following ways, shall be considered to be delivered in the following cases:

1) by personal delivery - from the date of acknowledgement of receipt the recommendation;

2) by mail - by registered letter with notification;

3) by electronic means - from the date of sending to the email address of the entity subject to control by the authorized agency managing for natural monopolies and its territorial

divisions or by the authorized agency for civil aviation, specified in the letter upon requesting by the authorized agency managing for natural monopolies, and its territorial divisions or authorized agency for civil aviation.

8. The recommendation on elimination of the violations identified by the results of preventive control without visiting the entity (object) subject to control should be executed within ten working days from the day following the day of its delivery.

9. In case of disagreement with the violations specified in the recommendation, the entity subject to control shall have the right to send the objection to the authorized agency managing for natural monopolies and its territorial divisions or the authorized agency for civil aviation sending the recommendation, within five working days from the day following the day of its delivery.

10. Nonperformance in the established period of the recommendation on elimination of violations identified by the results of preventive control without visiting the entity (object) subject to control shall entail the appointment of preventive control with a visiting to the entity (object) subject to control by inclusion in a half year list of the preventive control with a visiting the entity (object) subject to control.

11. Preventive control without visiting in respect of entities (objects) subject to control shall be carried out no more than once a quarter.

**Footnote. Chapter 11-1 is supplemented by Article 124-10 in accordance with the Law of the Republic of Kazakhstan No. 243-VI dated 03.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Chapter 12. COMPULSORY INSURANCE**

### **Article 125. Compulsory insurance of civil liability of business entities**

Compulsory insurance of civil liability of business entities is established by the laws of the Republic of Kazakhstan.

### **Article 126. Purpose of compulsory insurance**

The purpose of compulsory insurance is to compensate for the harm inflicted to life and (or) health, property of third parties, the environment, through insurance compensation.

### **Article 127. Target of compulsory insurance of civil liability of business entities**

The target of compulsory insurance of civil liability of business entities is the property interest of business entities related to its duty, established by the civil legislation of the Republic of Kazakhstan, to reimburse property damage inflicted to life and (or) the health of individuals, property of third parties, the environment in in the course of entrepreneurial activities.

### **Article 128. Implementation of compulsory insurance**

1. Compulsory insurance contracts for civil liability shall be concluded by business entities in the event of compensation for harm inflicted to life and (or) health of individuals, property of third parties, and the environment in the course of entrepreneurial activities.

2. The conclusion by business entities of a voluntary insurance contract of its civil liability for harm inflicted to life and (or) health, property of third parties, the environment associated with entrepreneurial activities does not exempt him from the obligation to enter into the relevant compulsory liability insurance contract of business entity provided for by the laws of the Republic of Kazakhstan.

## **Chapter 13. STATE CONTROL AND SUPERVISION**

### **Paragraph 1. General provisions on state control and supervision**

#### **Article 129. Relations in the field of state control and supervision**

1. Regulation of relations in the field of state control and supervision is carried out in order to establish the general legal foundations of state control and supervision in the Republic of Kazakhstan and is aimed at establishing uniform principles for control and supervisory activities, as well as protection of the rights and legitimate interests of state bodies, individuals and legal entities in respect of which the state control and supervision are carried out.

2. State regulation of relations in the field of organization of state control and supervision of subjects (objects) of state control and supervision shall be carried out in accordance with this Code, regardless of the legal status and types of activities, except for the cases provided for in paragraphs 4, 5, 6, 7, 8, 9, 11, 12 and 14 of this article.

3. This Code establishes:

- 1) the procedure for state control and supervision;
- 2) the procedure for interaction of control and supervision bodies during state control and supervision;
- 3) the rights and obligations of subjects of state control and supervision during state control and supervision, measures to protect their rights and legitimate interests;
- 4) the rights and obligations of control and supervision bodies and their officials in the conduct of state control and supervision.

4. The effect of this chapter, with the exception of this Article, Article 130, paragraphs 1, 2, 3 and 4 of Article 131 and Article 131-1 of this Code, does not apply to state control and supervision when it is impossible to determine in advance the subject (object) of state control and supervision, the time of their conduct, the location of the subject (object) of the state control and supervision related to:

- 1) compliance with road safety requirements;
- 2) the passage of motor vehicles through the territory of the Republic of Kazakhstan at transport control posts for compliance with transport safety requirements;
- 3) state control and supervision over the fulfillment of requirements for the safe operation of vessels in accordance with the Laws of the Republic of Kazakhstan "On Inland Water Transport" and "On Merchant Shipping";



4) implementation of state veterinary and sanitary control and supervision and state quarantine phytosanitary control and supervision in trade markets selling live animals, products and raw materials of animal and (or) vegetable origin, in organizations engaged in the production, harvesting (slaughter of animals), storage, processing of products and raw materials of animal and (or) vegetable origin in a single technological cycle;

5) compliance in specially protected natural territories and the territory of the state forest fund with the requirements in the field of specially protected natural territories, protection, use of the state forest fund, forest reproduction and afforestation, as well as for the purpose of state control over the unauthorized seizure of objects of the wildlife and plants;

5-1) compliance with the requirements in the field of custody, protection, restoration and use of wild plants;

6) compliance with the requirements for the use of wildlife in order to exercise state control and supervision over the unauthorized seizure of wildlife objects at:

fishery reservoirs – in terms of the established fishing measure of fish, sizes, types of tools and methods of fishing, restrictions and prohibitions on the use of wildlife, by-catch, as well as for keeping a log of the catch of fish resources and other aquatic animals (fishing log);

hunting territories - in terms of withdrawal, method and type of tools for hunting animals, their gender and age composition, restrictions and prohibitions on the use of wildlife;

7) state control and supervision of measures in quarantine zones and unfavorable points, foci of especially dangerous animal diseases, foci of the spread of quarantine facilities, especially dangerous harmful organisms;

8) state control over compliance with the rules of transportation of passengers, baggage and cargo baggage in passenger trains en route;

9) trade outside the places established by the local executive body;

10) state control in the field of population migration;

11) compliance with the requirements of the legislation of the Republic of Kazakhstan regulating the sale of alcoholic beverages to persons under the age of twenty-one, tobacco products, distribution of information products containing information prohibited for children, to persons under the age of eighteen, as well as the procedure for minors' stay in entertainment facilities.

5. The effect of this Chapter, with the exception of this Article, Article 130, paragraphs 1, 2, 3 and 4 of Article 131, paragraphs 2 and 3 of Article 154 and Article 157 of this Code, does not apply to the implementation of state control in order to ensure compliance with the requirements of the budget legislation of the Republic of Kazakhstan and other regulatory legal acts regulating issues of planning and execution of the republican and local budgets conducted in accordance with the legislation of the Republic of Kazakhstan on state audit and financial control.

6. The effect of this Chapter, with the exception of Article 130, paragraphs 1, 2, 3 and 4 of Article 131, Article 131-1, paragraphs 2 and 3 of Article 154 and Article 157 of this Code, does not apply to state control related to the contractual relations in part of:

1) state control over fulfillment by subsoil users of the terms of contracts and (or) licenses for subsoil use;

2) state control over compliance with legal acts of individual application;

3) state control over the execution of contracts and other transactions provided for by the legislation of the Republic of Kazakhstan.

7. The effect of this chapter does not apply to the conduct of permissive control on the applicant's compliance with qualification or permissive requirements prior to the issuance of a permit and (or) an appendix to the permit in cases provided for by the Law of the Republic of Kazakhstan "On Permits and Notifications", and if the legislation of the Republic of Kazakhstan provides for such control.

8. The effect of this Chapter, with the exception of paragraphs 1, 2, 3 and 4 of Article 131 and Article 131-1 of this Code, does not apply to state control in the field of customs affairs.

9. The effect of this chapter, with the exception of this Article (in terms of state veterinary and sanitary control and supervision, state quarantine phytosanitary control and supervision, state control in the field of plant protection), Article 130, paragraphs 1, 2, 3 and 4 of Article 131 and Article 131-1 of this Code, does not apply to state control and supervision related to:

1) crossing the State border of the Republic of Kazakhstan;

2) carrying out state veterinary and sanitary control and supervision, state quarantine phytosanitary control and supervision, state control in the field of plant protection when crossing the customs border of the Eurasian Economic Union and (or) the State Border of the Republic of Kazakhstan and (or) at the places of delivery, places of completion of customs clearance determined in accordance with the international treaties, and also by carrying out the state quarantine phytosanitary control and supervision, veterinary and sanitary control at phytosanitary and veterinary control posts.

10. The effect of this chapter, with the exception of this Article, paragraph 1 of Article 130, articles 131-1, 143, 144, 151, 153, 154, 155, 156 and 157 of this Code, does not apply to the state control and supervision in order to ensure compliance with the norms of the tax legislation of the Republic of Kazakhstan, other legislation of the Republic of Kazakhstan, state control over the execution of which is entrusted to the state revenue bodies.

11. This Chapter, with the exception of this Article, Article 130, paragraphs 1, 2, 3 and 4 of Article 131, Articles 138 and 139, paragraphs 2 and 3 of Article 154 and Article 157 of this Code, does not apply to the implementation of state control and supervision in order to ensure compliance with the requirements of the financial legislation of the Republic of Kazakhstan, as well as state control and supervision of the financial market, financial organizations, operators and operational centers of payment systems, payment organizations, as well as collection agencies.

12. This chapter does not apply to relations in the fields of:

- 1) supreme supervision over the observance of the rule of law in the territory of the Republic of Kazakhstan, carried out by the Prosecutor's Office;
- 2) control and supervision during pre-trial proceedings in a criminal case;
- 3) justice;
- 4) operational and investigative activities;
- 5) counterintelligence activities;
- 6) state control in the field of mobilization training and mobilization;
- 7) monitoring compliance with the requirements of the legislation of the Republic of Kazakhstan on state secrets;
- 8) state control in the field of control of specific goods.

13. This Chapter, with the exception of this Article, Articles 130, 131-1, 133, paragraphs 2 and 3 of Article 154 and Article 157 of this Code, does not apply to relations in the fields of :

- 1) state control carried out by internal affairs bodies on:
  - compliance with the requirements of the legislation of the Republic of Kazakhstan in the field of turnover of civil and service weapons and ammunition to it;
  - compliance by individuals with the requirements for the storage, carrying and use of civilian weapons;
  - compliance with the requirements of the legislation of the Republic of Kazakhstan in the field of turnover of narcotic drugs, psychotropic substances and precursors, civil pyrotechnic substances and products with their use within the requirements of Article 133 of this Code and the operational and preventive measures of internal affairs bodies;
- 2) compliance with the requirements of the legislation of the Republic of Kazakhstan on countering terrorism in terms of ensuring the anti-terrorist protection of objects vulnerable to terrorism;
- 3) compliance with the requirements of the legislation of the Republic of Kazakhstan in the field of competition protection;
- 4) compliance with the legislation of the Republic of Kazakhstan in the field of state statistics;
- 5) compliance with the requirements of the legislation of the Republic of Kazakhstan in the field of legal turnover of explosives.

The relations arising during the state control over compliance with the requirements of the legislation of the Republic of Kazakhstan in the field of competition protection carried out by the antimonopoly authority are regulated by Chapter 20 of this Code.

14. The effect of this Chapter, with the exception of this Article, paragraphs 1 and 3 of Article 130, paragraphs 1, 2, 3 and 4 of Article 131 of this Code, does not apply to state control and supervision related to compliance of individuals and legal entities with the requirements for the safety of aircraft and aviation security.

15. At the same time, inspections carried out on the grounds specified in subparagraph 11) of paragraph 4, paragraphs 5 (except for inspections of internal audit services) and 10 (except for control at excise posts), subparagraphs 1), 2) and 5 of paragraph 13 of this article are subject to mandatory registration with the authorized body in the field of legal statistics and special records).

At the same time, the act on the appointment of inspections specified in subparagraph 11) of paragraph 4, subparagraphs 1) (in the field of narcotic drugs, psychotropic substances and precursors) and 2) of paragraph 13 of this article is subject to registration with the authorized body in the field of legal statistics and special records within the next working day after the start of the inspection.

The control and supervision bodies quarterly, no later than the fifth day of the month following the reporting quarter, submit to the authorized body in the field of legal statistics and special records the information on the inspections carried out in respect of private business entities specified in part one of this paragraph, in the form determined by the Prosecutor General's Office of the Republic of Kazakhstan.

16. This Chapter, with the exception of Article 130, paragraphs 1, 2, 3 and 4 of Article 131, Article 131-1, paragraphs 2 and 3 of Article 154 and Article 157 of this Code, does not apply to the implementation of the:

- 1) state control over the quality of public services;
- 2) state control over compliance with the legislation of the Republic of Kazakhstan, the subjects of which are the state bodies.

17. The procedure for conducting state control and supervision specified in paragraphs 4, 5, 6, 11, 12 and 14 of this Article, and the relations arising in this case are regulated by the laws of the Republic of Kazakhstan.

The procedure for conducting state control and supervision specified in paragraphs 8 and 9 of this Article, and the relations arising therefrom, are regulated by the laws of the Republic of Kazakhstan, international treaties of the Republic of Kazakhstan and acts constituting the law of the Eurasian Economic Union.

18. The relations listed in paragraphs 5, 6 and 12 of this Article, in terms of internal control, are subject to Article 38 of the Administrative Procedural Code of the Republic of Kazakhstan.

19. It is prohibited to conduct state control and supervision in cases where the laws of the Republic of Kazakhstan do not regulate the procedure for conducting state control and supervision specified in paragraphs 4, 5, 6, 9, 11, 12 and 14 of this article.

It is prohibited to conduct state control and supervision in cases where the laws of the Republic of Kazakhstan, international treaties and acts constituting the law of the Eurasian Economic Union do not regulate the procedure for conducting state control and supervision specified in paragraph 8 of this article.

20. State control and supervision of business entities shall be carried out only in the spheres of activity of business entities provided for in Articles 138 and 139 of this Code.

21. In order to include new areas of activity in Articles 138 and 139 of this Code, regulatory state bodies must first conduct a regulatory impact analysis procedure in accordance with Article 83 of this Code.

22. In cases directly provided for by the laws of the Republic of Kazakhstan, the provisions of this Chapter apply to relations regulated by these laws of the Republic of Kazakhstan, regulated by these laws.

**Footnote. Article 129 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (see Article 2 for the procedure for entry into force); as amended by the Law of the Republic of Kazakhstan dated 28.12.2022 No. 173-VII (shall be enforced sixty calendar days after the date of its first official publication); dated 02.01.2023 No. 184-VII ( shall be enforced sixty calendar days after the date of its first official publication).**

### **Article 130. Purpose and objectives of state control and supervision**

1. The purpose of state control and supervision is to ensure the safety of products produced and sold by the subject of state control and supervision, technological processes for the life and health of people, protection of their property, safety for the environment, national security of the Republic of Kazakhstan, including economic security, prevention of deceptive practices, saving natural and energy resources, increasing the competitiveness of domestic products and protection of constitutional rights, freedoms and legitimate interests of individuals and legal entities.

2. State bodies are prohibited from adopting subordinate regulatory legal acts on the procedure for conduct of state control and supervision of business entities, with the exception of regulatory legal acts provided for in paragraph 6 of Article 141, paragraph 1 of Article 143, paragraph 1 of Article 144-3 and paragraph 5 of Article 144-4 of this Code.

3. The objectives of state control and supervision are:

- 1) ensuring the prevention of offenses, causing harm (damage);
- 2) stimulating bona fide subjects of state control and supervision;
- 3) taking measures to eliminate the identified offenses.

**Footnote. Article 130 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

### **Article 131. Guarantees for business entities in the exercise of state control and supervision**

**Footnote. Title of Article 131 as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

1. State control and supervision of the activities of business entities are carried out by state bodies to which such a right is granted by this Code and the laws of the Republic of Kazakhstan.

2. State control and supervision of entrepreneurship is carried out on the basis of the principles of independence, objectivity, impartiality, reliability of forms of state control and supervision.

3. The state guarantees accountability and transparency of the system of state control and supervision.

4. State control and supervision is carried out on the basis of encouragement of conscientious subjects of state control and supervision, focusing of state control and supervision on violators.

5. It is prohibited to conduct preventive control with visits to subjects (objects) of state control and supervision without the preventive control without visiting subjects (objects) of state control and supervision in accordance with Article 144-1 of this Code, if the laws of the Republic of Kazakhstan provide for preventive control without visiting subjects (objects) of state control and supervision.

6. It is prohibited to conduct state control and supervision over small business entities, including microenterprises, within three years from the date of their state registration (except for established legal entities in the order of reorganization and legal successors of reorganized legal entities), with the exception of unscheduled inspections.

The provision of part one of this paragraph in terms of state control defined by the Code of the Republic of Kazakhstan "On Taxes and Other Mandatory Payments to the Budget" (Tax Code) applies only to tax audits.

**Footnote. Article 131 as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

#### **Article 131-1. Unified Report Day**

1. A Unified Report Day of the control and supervision bodies shall annually be held on the last Thursday of September, with the exception of the National Bank of the Republic of Kazakhstan and the authorized body for regulation, control and supervision of the financial market and financial organizations in the manner determined by the authorized business body in order to improve the interaction between business entities and the state.

2. A Unified Report Day is a meeting in the capital city, cities of republican significance and regional centres to discuss the results of state control and supervision and prevention of violations of the legislation of the Republic of Kazakhstan with business entities.

**Footnote. Chapter 13 is supplemented by Article 131-1 in accordance with the Law of the Republic of Kazakhstan dated 30.12.2020 No. 397-VI (shall be enforced upon expiry of six months after the date of its first official publication).**

#### **Article 132. Performers and targets of state control and supervision. Requirements for the activities of performers (targets) of state control and supervision**

1. The subjects of state control and supervision are individuals, legal entities, their branches and representative offices, state bodies whose activities are subject to state control and supervision.

The target of state control and supervision is the property on the right of ownership or other legal basis of the performer of state control and supervision, subject to state control and supervision.

2. The requirements for the activities of performers (targets) of state control and supervision are established by regulatory legal acts, and in cases provided for by the laws of the Republic of Kazakhstan, only by laws of the Republic of Kazakhstan, decrees of the President of the Republic of Kazakhstan and resolutions of the Government of the Republic of Kazakhstan.

**Footnote. Article 132 as amended by the Law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

### **Article 133. Guarantees of the private business entities upon carrying out of state control and supervision by law enforcement bodies**

In relation to the private business entities, the law enforcement bodies shall conduct measures of control and (or) supervision only within the operational investigations, criminal prosecution, administrative proceedings and (or) implementation of regulatory functions, carried out by the law enforcement bodies, as well as in other cases, provided by the Laws of the Republic of Kazakhstan.

### **Article 134. State control**

1. State control (hereafter – the control) is the activity of the control and supervision body for checking and monitoring the compliance of the activity of the subjects (objects) of control and supervision with the requirements, established by the legislation of the Republic of Kazakhstan.

2. The control shall be divided into internal control and external control.

3. The procedure for conducting internal control shall be determined by the Administrative Procedure and Procedural Code of the Republic of Kazakhstan.

4. The external control is the control, carried out by the control and supervision body for checking and monitoring the compliance of the activity of the subjects (objects) of control and supervision with the requirements, specified in paragraph 2 of article 132 and paragraph 3 of article 143 of this Code.

The procedure for external control is determined by Article 137 and paragraph 2 of Chapter 13 of this Code.

According to the results of external control, in case of detection of violations of the legislation of the Republic of Kazakhstan, the state bodies, within their competence, initiate administrative, disciplinary proceedings or initiate appropriate statements of claim within their competence and (or) take other measures stipulated by the laws of the Republic of Kazakhstan.

Footnote. Article 134 as amended by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 351-VI (shall be enforced from 01.07.2021); dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).

### **Article 135. State supervision**

1. State supervision (hereinafter referred to as supervision) is the activity of the control and supervision body for checking and monitoring of compliance of the activities of subjects (objects) of control and supervision with the requirements established by the legislation of the Republic of Kazakhstan, with the right to apply rapid response measures during its implementation.

2. Supervision consists in the application by the control and supervision body of rapid response measures without initiating administrative proceedings.

3. Supervision is divided into:

1) supreme supervision over the observance of legality on the territory of the Republic of Kazakhstan, carried out by the prosecutor's office on behalf of the state in accordance with the Constitution of the Republic of Kazakhstan, the Constitutional Law of the Republic of Kazakhstan "On the Prosecutor's Office" and other legislation of the Republic of Kazakhstan;

2) supervision carried out by control and supervision bodies in the manner and under the conditions established by this Code and other laws of the Republic of Kazakhstan.

Footnote. Article 135 as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).

### **Article 136. Prompt response measures**

1. Rapid response measures are the methods of influencing the subjects (objects) of control and supervision provided for by the laws of the Republic of Kazakhstan in order to prevent the occurrence of socially dangerous consequences, applied during the implementation and based on the results of control and supervision.

It is prohibited to apply rapid response measures in cases where there is no procedure for their application in the laws of the Republic of Kazakhstan.

2. Rapid response measures are applied by control and supervision bodies in cases stipulated by the laws of the Republic of Kazakhstan, if the activities, goods (work, service) of the subject (object) of control and supervision pose a direct threat to the constitutional rights, freedoms and legitimate interests of individuals and legal entities, human life and health, the environment, national security of the Republic Kazakhstan.

3. The procedure for the application of rapid response measures established by the laws of the Republic of Kazakhstan includes:

1) grounds for the application of rapid response measures;

2) types of rapid response measures and conditions for their application to specific violations of requirements;

3) the procedure for issuing an order (act, resolution) on the application of a measure (measures) of rapid response.



The list of requirements included in accordance with Article 143 of this Code in the checklist, the violation of which is the basis for the application of rapid response measures, is determined by the legislation of the Republic of Kazakhstan.

4. Rapid response measures are applied by control and supervision bodies in the areas of activity defined by Article 139 of this Code.

**Footnote. Article 136 as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

### **Article 137. Forms of control**

1. Control over the activities of subjects (objects) of control and supervision is carried out in the form of:

1) preventive control, which has a preventive nature, the order of organization and conduct of which is determined by this Code and other laws of the Republic of Kazakhstan;

2) inspections, the procedure of organization and conduct of which is determined by this Code, and in cases provided for by this Code – by other laws of the Republic of Kazakhstan;

3) investigations.

2. Preventive control is divided into types:

1) preventive control without visiting the subject (object) of control and supervision;

2) preventive control with a visit to the subject (object) of control and supervision;

3) control purchase.

3. Inspections are divided into the following types:

1) inspections carried out for compliance with qualification or licensing requirements for issued permits, requirements for sent notifications in accordance with the Law of the Republic of Kazakhstan "On Permits and Notifications" (hereinafter – inspection of compliance with requirements);

2) unscheduled inspections.

4. Investigation as one of the forms of control is a set of actions of control and supervision bodies carried out in accordance with Article 144-4 of this Code and other legislation of the Republic of Kazakhstan.

5. Preventive control with a visit to the subject (object) of control and supervision and (or) inspections are carried out by the control and supervision bodies by performing one of the following actions:

1) visiting the subject (object) of control and supervision by an official of the control and supervision body;

2) requesting the necessary information concerning the subject of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

3) summoning the subject of control and supervision in order to obtain information on his compliance with the requirements provided for in paragraph 2 of Article 132 and paragraph 3 of Article 143 of this Code.

6. The subject of preventive control with a visit to the subject (object) of control and supervision and (or) inspection is the compliance of the subjects of control and supervision with the requirements established in the checklists in accordance with paragraph 2 of Article 132 and paragraph 3 of Article 143 of this Code.

7. As part of preventive control or inspection, rapid response measures may be applied in accordance with the provisions of Article 136 of this Code.

The control and supervision body in the course of preventive control or inspection, upon detection of a violation of the requirements of the checklist, which is the basis for the application of the rapid response measure (measures), draws up an appropriate instruction (act, resolution) on the application of the rapid response measure (measures).

**Footnote. Article 137 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

### **Article 138. Scope of activities of business entities in which control is exercised**

The control shall be carried out:

- 1) in the field of electric power industry;
- 2) in the field of energy saving and energy efficiency improvement;
- 3) excluded by the Law of the Republic of Kazakhstan dated December 27, 2017 No. 126-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication);
- 4) in the field of subsoil exploration and use;
- 5) in the field of gas and gas supply;
- 6) in the field of radiation safety of the population;
- 6-1) in the field of industrial safety;
- 7) during performance of subsoil use operations in the field of hydrocarbons and uranium mining;
- 8) for the production and circulation of certain types of petroleum products;
- 9) in the field of the use of atomic energy – for entities engaged in activities of potential radiation hazard;
- 10) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );
- 11) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );
- 12) in the field of compulsory insurance of civil liability of vehicle owners and the carrier to passengers at checkpoints across the State Border of the Republic of Kazakhstan;
- 13) in the field of transport;
- 14) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

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15) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication

);

16) in the field of control of specific goods;

17) in the field of technical regulation;

18) for compliance with the legislation of the Republic of Kazakhstan on Accreditation in the field of conformity assessment;

19) in the field of metrology;

20) in the field of housing management;

21) in the field of livestock breeding and beekeeping;

22) in the field of protection, reproduction and use of animal world;

23) in the field of seed production;

24) in the field of grain market regulation;

25) in the field of conservation, protection, use of the forest estate, forest reproduction and afforestation;

26) in the field of use and protection of the water fund of the Republic of Kazakhstan, dam safety;

27) is excluded by Law of the Republic of Kazakhstan No. 268-VI dated 28.10.2019 ( shall be enforced since 06.01.2020) ;

28) in the field of conservation areas;

29) is excluded by the Law of the Republic of Kazakhstan dated 05.01.2021 No. 409-VI ( shall be enforced from 01.01.2022).

30) for the use and protection of land;

31) for geodetic and cartographic activities;

32) in the field of environmental protection, reproduction and use of natural resources;

33) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication

);

34) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication

);

35) in the field of civil defense;

36) in the field of fire security;

37) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication

);

38) for circulation of medicinal products and medical devices;

39) for the quality of rendered special social services;

39-1) in the field of rendering medical services (assistance);

40) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

41) in the field of sanitary and epidemiological welfare of the population;

42) for the education system;

43) for compliance with the legislation of the Republic of Kazakhstan on the National Archival Fund and Archives;

44) for compliance with the labor legislation of the Republic of Kazakhstan and the legislation of the Republic of Kazakhstan in the field of employment of the population;

45) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

46) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

47) in the field of social protection of persons with disabilities;

48) in the provision of special social services;

49) for the observance of the legislation of the Republic of Kazakhstan on Mass media;

50) for compliance with the legislation of the Republic of Kazakhstan on Television and Radio broadcasting;

51) in the field of communications;

52) in the field of informatization;

53) for compliance with the legislation of the Republic of Kazakhstan on Electronic document and Electronic digital signature;

The procedure for the introduction of subparagraph 54) see paragraph 11 of Article 324 of the Code of the Republic of Kazakhstan dated October 29, 2015 No. 375-V.

54) for tax revenues and other obligatory payments to the budget, as well as the full and timely transfer of mandatory pension contributions, mandatory professional pension contributions to the unified accumulative pension fund and social contributions to the State Social Insurance Fund, contributions and contributions to compulsory social medical care insurance to the Social Healthcare Insurance Fund;;

55) for receipt of non-tax payments within the competence established by the laws of the Republic of Kazakhstan;

56) when applying transfer prices;

57) for compliance with the legislation of the Republic of Kazakhstan on Counteraction of the Legitimization of the Proceeds of Crime and Financing of Terrorism;

58) the implementation of currency operations and activities related to the use of currency valuables;

59) for the financial market and financial organizations and in the field of financial legislation of the Republic of Kazakhstan;

60) excluded by the law of the Republic of Kazakhstan dated July 2, 2018 No. 168-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

60-1) excluded by the law of the Republic of Kazakhstan dated July 2, 2018 No. 168-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

61) for compliance with the legislation of the Republic of Kazakhstan on Payments and Payment systems and the Currency legislation of the Republic of Kazakhstan;

62) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

63) in the field of competition protection;

64) for the use of a trademark, service mark, geographical indication of goods or a company name;

65) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

66) in the field of valuation activities;

67) in the field of natural monopolies;

68) was valid until January 1, 2017 in accordance with the Code of the Republic of Kazakhstan dated October 29, 2015 No. 375-V.

68-1) for compliance with the pricing procedure and obligations of the performer of the socially significant market, established by this Code;

69) for compliance with the legislation of the Republic of Kazakhstan on public procurement, procurement of individual entities of the quasi-public sector;

70) for ensuring road traffic safety;

71) for the activities of individuals and legal entities engaged in the circulation of civilian and service weapons and its ammunition, civil pyrotechnic substances and products with their use;

72) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

73) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

74) for security activities;

75) for the installation, commissioning and maintenance of security alarm;

- 76) for the state of anti-terrorist protection of objects vulnerable to terrorism;
- 77) for the activities of specialized training centers for the training and advanced training of employees holding the positions of chief and security guard in a Private Security Company ;
- 78) for the circulation of narcotic drugs, psychotropic substances and precursors;
- 79) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );
- 80) for compliance with the legislation of the Republic of Kazakhstan on Tourist activities ;
- 81) in the field of auditing activities and the activities of professional audit organizations;
- 82) for compliance with the legislation of the Republic of Kazakhstan on Gambling Industry;
- 83) for compliance with the legislation of the Republic of Kazakhstan on Commodity Exchanges;
- 84) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );
- 85) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );
- 86) for the conduct of anti-doping activities in sport;
- 87) in the field of accounting and financial reporting;
- 88) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );
- 89) in the field of protection and use of items of historical and cultural heritage;
- 90) in the field of biofuel circulation;
- 91) in the field of biofuel production;
- 92) for compliance with the legislation of the Republic of Kazakhstan on Trading activities regulation;
- 92-1) for compliance with the legislation of the Republic of Kazakhstan on the protection of consumer rights;
- 93) in the field of space activities;
- 94) is excluded by the Law of the Republic of Kazakhstan No. 243-VI dated 03.04.2019 ( shall be enforced upon expiry of ten calendar days after its first official publication);
- 95) for compliance with the legislation of the Republic of Kazakhstan on Advertising;
- 96) in the field of architecture, urban planning and construction;
- 97) in the field of veterinary medicine;

- 98) in the field of plant protection and quarantine;
- 98-1) in the field of custody, protection, restoration and use of wild plants;
- 99) for compliance with the legislation of the Republic of Kazakhstan on Main pipelines;
- 100) in the field of highways;
- 101) in the field of protection of the rights of a child;
- 102) in the field of production and circulation of ethyl alcohol and alcoholic products;
- 103) in the field of production and circulation of tobacco products;
- 104) in the field of permitting control;
- 105) in the field of circulation of poisons, weapons, military equipment and certain types of weapons, explosive and pyrotechnic substances and products with their use;
- 106) in the field of industry;
- 107) for compliance with the rules of military registration of persons liable for military service and conscripts by organizations of military service and conscripts;
- 108) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication);
- 109) in the field of support and protection of business entities;
- 110) in the field of state statistics;
- The subparagraph 111) shall be enforced after the enactment on the production of organic products in accordance with the Code of the Republic of Kazakhstan dated October 29, 2015 No. 375-V.
- 111) in the field of production of organic products;
- 112) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication);
- 113) in the field of sale of jewelry and other products made of precious metal wares and precious stones;
- 114) for compliance with the legislation of the Republic of Kazakhstan on Lotteries and Lottery activities;
- 115) for production and turnover in respect of goods subject to labeling and traceability;
- 116) for compliance with the legislation of the Republic of Kazakhstan on rehabilitation and bankruptcy;
- 117) in the field of digital assets;
- 118) for compliance with the legislation of the Republic of Kazakhstan on online platforms and online advertising.

Footnote. Article 138 as amended by the Law of the Republic of Kazakhstan dated April 9 , 2016 No. 496-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated January 14, 2016 No. 445-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated July 26, 2016 No. 12-VI (

shall be enforced upon expiry of ten calendar days after the date of its first official publication ); dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); dated May 6 , 2017 No. 63-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated December 27, 2017 No.126-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated July 2, 2018 No. 168-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 211-VI dated 28.12.2018 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 241-VI dated 02.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 243-VI dated 03.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 268-VI dated 28.10.2019 (shall be enforced since 06.01.2020); No. 289-VI dated December 26, 2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication); No. 290-VI dated December 27, 2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 13.05.2020 No. 325-VI (shall be enforced upon expiry of six months after the date of its first official publication); dated 25.06.2020 No. 346-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 07.07.2020 No . 361-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 05.01.2021 No. 409-VI (shall be enforced from 01.01.2022); dated 08.06.2021 No. 48-VII (shall be enforced from 01.01.2022); dated 30.12.2021 No. 95-VII ( shall be enforced from 01.01.2023); dated 27.06.2022 No. 129-VII (shall be enforced ten calendar days after the date of its first official publication); dated 28.12.2022 No. 173-VII ( effective after sixty calendar days after the date of its first official publication); dated 02.01.2023 No. 184-VII (shall be enforced sixty calendar days after the date of its first official publication); dated 06.02.2023 No. 194-VII (shall be enforced from 01.04.2023); dated 20.04.2023 No. 226-VII (shall be enforced from 01.07.2023); dated 10.07.2023 No. 19-VIII (shall be enforced sixty calendar days after the date of its first official publication).

**Article 139. Scope of activities of business entities in which supervision is exercised**

The supervision shall be carried out:

- 1) in the field of airspace management of the Republic of Kazakhstan;
- 2) for the activities of civil aviation;
- 3) for international air traffic;
- 4) for aviation security support;
- 5) in the field of merchant shipping;
- 6) in the field of inland water transport;
- 7) in the field of architecture, urban planning and construction;
- 8) in the field of veterinary medicine;
- 9) in the field of plant quarantine;



- 10) in the field of sanitary and epidemiological welfare of the population;
- 10-1) in the field of technical regulation in terms of release into circulation of products for their compliance with the requirements of technical regulations;
- 11) for the financial market and financial organizations and in the field of financial legislation of the Republic of Kazakhstan;
- 12) excluded by the law of the Republic of Kazakhstan dated July 2, 2018 No. 168-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );
- 13) excluded by the law of the Republic of Kazakhstan dated July 2, 2018 No. 168-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );
- 14) for the activities of investment funds;
- 15) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );
- 16) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );
- 17) excluded by the law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );
- 18) in the field of industrial safety;
- 19) in the field of the use of atomic energy;
- 20) in the field of protection, reproduction and use of the animal world;
- 21) in the field of protection, use of the forest fund, reforestation and afforestation;
- 22) in the field of specially protected natural areas.
- 23) in the field of fire safety.

Footnote. Article 139 as amended by the Law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated July 02, 2018 No. 168-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 268-VI dated October 28, 2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 30.12.2020 No. 397-VI (shall be enforced upon expiry of six months after the date of its first official publication); dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).

**Paragraph 2. Procedure for organizing and conducting control of the subject (object) of control and supervision**

Footnote. The title of paragraph 2 - in the wording of the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).

**Article 140. General issues of inspection and preventive control and supervision with a visit to the performer (target) of control and supervision**

Footnote. Article 140 is excluded by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).

**Article 141. Risk assessment and management system**

1. Risk is the probability of causing harm as a result of the activities of the subject of control and supervision to human life or health, the environment, the legitimate interests of individuals and legal entities, the property interests of the state, taking into account the severity of its consequences.

Risk assessment refers to the activities of control and supervision bodies to measure the likelihood of harm.

2. The risk assessment and management system for the purposes of control and supervision is understood as the process of making managerial decisions aimed at reducing the likelihood of the occurrence of adverse factors specified in part one of paragraph 1 of this article by distributing the subjects (objects) of control and supervision by degrees of risk for the subsequent implementation of preventive control with a visit to the subject (object) of control and supervision and (or) inspections for compliance with the requirements for the purpose of the minimum possible degree of restriction of freedom of entrepreneurship, ensuring at the same time an acceptable level of risk in the relevant fields of activity, as well as aimed at changing the level of risk for a particular subject (object) of control and supervision and (or) releasing such a subject (object) of control and supervision from preventive control with a visit to the subject (object) of control and supervision and (or) compliance inspections.

The criterion for assessing the degree of risk is a set of quantitative and qualitative indicators related to the direct activities of the subject of control and supervision, the features of industry development and factors affecting this development, allowing the subjects (objects) of control and supervision to be attributed to various degrees of risk.

3. For the purposes of risk management, the control and supervision body, when carrying out preventive control with a visit to the subject (object) of control and supervision and (or) inspection, assigns the subjects (objects) of control and supervision to one of the following degrees of risk (hereinafter referred to as the degree of risk):

- 1) high risk;
- 2) average risk;
- 3) low risk.

4. For the spheres of activity of subjects (objects) of control and supervision classified as high risk, the frequency of inspections for compliance with the requirements is determined by the criteria for assessing the degree of risk, but not more than once a year.

The frequency of inspections for compliance with the requirements for subjects (objects) of control and supervision of high epidemic significance in the field of sanitary and epidemiological welfare of the population is determined no more than once every six months.

For the spheres of activity of subjects (objects) of control and supervision classified as medium risk, the frequency of inspections for compliance with the requirements is determined by the criteria for assessing the degree of risk, but not more than once every two years.

For the spheres of activity of subjects (objects) of control and supervision classified as low risk, the frequency of inspections for compliance with the requirements is determined by the criteria for assessing the degree of risk, but not more than once every three years.

For the spheres of activity of subjects (objects) of control and supervision classified as high or medium risk, inspection of compliance with the requirements, preventive control with a visit to the subject (object) of control and supervision, preventive control without visiting the subject (object) of control and supervision and unscheduled inspection are carried out.

For the spheres of activity of subjects (objects) of control and supervision classified as low risk, a compliance inspection, preventive control without visiting the subject (object) of control and supervision and an unscheduled inspection are carried out.

5. The criteria for assessing the degree of risk and checklists used to conduct preventive control with a visit to the subject (object) of control and supervision and inspections for compliance with the requirements are approved by a joint act of regulatory state bodies, the authorized body for entrepreneurship and are posted on the Internet resources of regulatory state bodies.

6. Risk assessment criteria for the selection of subjects (objects) of control and supervision, checklists are developed on the basis of the rules for the formation of a risk assessment and management system by regulatory state bodies.

7. The risk assessment and management system by regulatory state bodies is conducted using information systems for risk assessment and management, which relate subjects (objects) of control and supervision to specific degrees of risk and automatically generate schedules or lists of control measures, and is also based on state statistics, the results of departmental statistical observation, as well as information tools.

In the absence of an information system for risk assessment and management in automatic mode, the minimum allowable threshold for the number of subjects (objects) of control and supervision, in respect of which preventive control is carried out with a visit to the subject (object) of control and supervision and (or) inspection, should not exceed five percent of the total number of such subjects (objects) of control and supervision in a certain area of control and supervision.

The formation of a risk assessment and management system of control and supervision bodies using information systems in automatic mode is carried out in accordance with the

rules for the formation of a risk assessment and management system by regulatory state bodies, taking into account the specifics and confidentiality of risk assessment criteria.

8. The criteria for assessing the degree of risk are the basis for determining the degree of violation of the requirements established in the checklists in accordance with paragraph 2 of Article 132 and paragraph 3 of Article 143 of this Code and are the subject of preventive control with a visit to the subject (object) of control and supervision and (or) verification of compliance with the requirements.

Violations of the requirements, depending on the severity, are divided into gross, significant and minor.

The attribution of violations of the requirements established in the checklists in accordance with paragraph 2 of Article 132 and paragraph 3 of Article 143 of this Code to gross, significant or minor violations is carried out in accordance with the rules for the formation of a risk assessment and management system by regulatory state bodies.

9. Subjects (objects) of control and supervision are transferred using an information system from a high degree of risk to an average degree of risk or from an average degree of risk to a low degree of risk in the relevant fields of activity of subjects of control and supervision in the following cases:

1) if such entities have concluded insurance contracts of civil liability to third parties in the cases and in the manner prescribed by the laws of the Republic of Kazakhstan;

2) if the laws of the Republic of Kazakhstan and the criteria for assessing the degree of risk of regulatory state bodies define cases of exemption from preventive control with a visit to the subject (object) of control and supervision or inspections;

3) if the subjects are members of a self-regulating organization based on voluntary membership (participation) in accordance with the Law of the Republic of Kazakhstan "On Self-Regulation", with which an agreement has been concluded on the recognition of the results of the activities of the self-regulating organization.

10. Regulatory state bodies, when exercising control and supervision over a member (participant) of a self-regulatory organization based on voluntary membership (participation), take into account the fact of such membership (participation) in the criteria for assessing the degree of risk as a mitigating indicator, taking into account the concluded agreement on the recognition of the results of the activities of a self-regulatory organization in the manner determined by the authorized body for entrepreneurship.

The provisions of part one of this paragraph, as well as subparagraph 3) of paragraph 9 of this Article do not apply to the spheres of national security of the Republic of Kazakhstan, defense, public order.

11. Determination of forms of control of subjects (objects) of control and supervision is carried out by regulatory state bodies for each sphere of activity in which control is carried out.

Footnote. Article 141 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).

#### **Article 142. Departmental accounting**

Footnote. Article 142 excluded by the Law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

#### **Article 143. Checklists**

1. The regulatory state body and the authorized body for entrepreneurship for homogeneous groups of subjects (objects) of control and supervision shall approve the checklists by a joint act.

The approved checklists are posted on the Internet resources of the regulatory state bodies

2. The checklist includes a list of mandatory requirements for the activities of subjects (objects) of control and supervision, non-compliance with which entails a threat to human life and health, the environment, the legitimate interests of individuals and legal entities, the state.

The checklist is compiled in a breakdown for homogeneous groups of subjects (objects) of control and supervision.

Homogeneous groups are understood as subjects (objects) of control and supervision, to which the same requirements are imposed.

3. Only the requirements set out in the checklists are subject to verification and preventive control with a visit to the subject (object) of control and supervision.

The requirements included in the checklist must meet all of the following criteria at the same time:

1) be associated with an activity (process, action) that directly (directly) affects the life, health of people, protection of their property, safety for the environment, national security of the Republic of Kazakhstan, including economic security, protection of constitutional rights, freedoms and legitimate interests of individuals and legal entities, the state;

2) compliance with the requirements can be checked by visualization, laboratory examination, inspection, verification of the availability of supporting documents;

3) the requirements may not be general in nature and contain a reference to other regulatory legal acts;

4) avoiding duplication of the requirement by several regulatory state bodies.

Footnote. Article 143 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).

#### **Article 144. Procedure for organizing inspections**

1. Inspections for compliance with the requirements are carried out using risk assessment criteria with the frequency established by paragraph 4 of Article 141 of this Code.

Qualification or licensing requirements, as well as requirements within the framework of the notification procedure, are established by the legislation of the Republic of Kazakhstan.

2. The ground for appointment of a compliance inspection is the schedule generated by the risk assessment and management information system in automatic mode.

In the absence of an automated information system for risk assessment and management, the schedule is approved by the regulatory state body.

The schedule is formed in the information system of risk assessment and management in automatic mode on an annual basis in respect of subjects (objects) of control and supervision with mandatory indication of subjects (objects) of control and supervision, in respect of which a compliance inspection is scheduled.

When the control and supervision body draws up a schedule of inspections for compliance with the requirements and semi-annual lists of preventive control with visits to the subject (object) of control and supervision in respect of the same subjects (objects) of control and supervision, uniform deadlines for the period of their conduct are established.

3. The control and supervision body is obliged to notify in writing the subject of control and supervision (the head of a legal entity or his authorized person, an individual) of the start of the compliance inspection at least thirty calendar days before the start of the inspection, indicating the date of its start.

In the case when the subject of control and supervision has received notification of the beginning of the inspection, but at the time of the inspection has passed the state re-registration in accordance with paragraph 6 of Article 42 of the Civil Code of the Republic of Kazakhstan, a repeated notification of the beginning of the inspection is not required.

The provisions of this paragraph do not apply to inspections of the subjects of control and supervision handling pathogenic biological agents of I and (or) II pathogenicity groups.

4. An unscheduled inspection is an inspection appointed by the control and supervision body on specific facts and circumstances that served as the ground for the appointment of an unscheduled inspection in relation to a specific subject (object) of control and supervision, in order to prevent and (or) eliminate an immediate threat to human life and health, the environment, the legitimate interests of individuals and legal entities, the state.

When conducting an unscheduled inspection, except for the cases provided for in sub-paragraphs 3), 4), 7) and 8) of paragraph 5, paragraphs 8, 9 and 10 of this article, the control and supervision body is obliged to notify the subject of control and supervision of the beginning of an unscheduled inspection of the subject (object) of control and supervision for at least a day before its start, indicating the subject of the inspection of the subject (object) of control and supervision.

5. The grounds for an unscheduled inspection of subjects (objects) of control and supervision are:

1) control over the execution of instructions on the elimination of identified gross violations defined in the criteria for assessing the degree of risk, as a result of inspection of compliance with the requirements and preventive control with a visit to the subject (object) of control and supervision;

2) control over the execution of instructions on the elimination of identified significant and minor violations defined in the risk assessment criteria, as a result of inspection of compliance with the requirements and preventive control with a visit to the subject (object) of control and supervision in cases where the subject of control and supervision more than once did not provide information on the elimination of identified violations and (or) did not eliminate violations;

3) appeals of individuals and legal entities on violations of the requirements of the legislation of the Republic of Kazakhstan in the presence of convincing grounds and supporting evidence;

4) instructions from the prosecutor's office on specific facts of causing or about the threat of harm to life, human health, the environment and the legitimate interests of individuals and legal entities, the state;

5) appeals of state bodies on specific facts of harm to life, human health, the environment and the legitimate interests of individuals and legal entities, the state, as well as violations of the requirements of the legislation of the Republic of Kazakhstan, non-removal of which entails harm to human life and health;

6) repeated inspection related to the application of the subject of control and supervision on disagreement with the initial inspection (illegality of the use of rapid response measures);

7) assignment of the criminal prosecution body on the grounds provided for by the Criminal Procedure Code of the Republic of Kazakhstan;

8) taxpayer's appeals, information and issues defined by the Code of the Republic of Kazakhstan "On taxes and other obligatory payments to the budget" (Tax Code).

6. Unscheduled inspections are not carried out in cases of anonymous appeals.

7. The facts and circumstances revealed in relation to specific subjects (objects) of control and supervision and which served as the ground for the appointment of this unscheduled inspection are subject to unscheduled inspection.

8. In the event of a threat of the spread of an epidemic, foci of quarantine facilities and especially dangerous harmful organisms, infectious, parasitic diseases, poisoning, radiation accidents, an unscheduled inspection of facilities is carried out without prior notification of the subject of control and supervision and registration of the act on the appointment of the inspection, followed by its submission within the next working day to the authorized body for legal statistics and special records.

9. If the grounds for carrying out an unscheduled inspection are identified at the facilities or at the subjects of control and supervision located at a considerable distance from the location of the control and supervision bodies, as well as the authorized body for legal statistics and special records, an unscheduled inspection is carried out without prior notification of the subject of control and supervision and registration of the act on the appointment of the inspection, followed by its submission within the next five working days to the authorized body for legal statistics and special records.

A significant distance from the location of the controlling and registering bodies is considered to be a distance exceeding one hundred kilometers from the place of registration of the act on the appointment of an unscheduled inspection to the place of its conduct.

10. Unscheduled inspections on the production (formulation), transportation, storage, sale and use of falsified pesticides, as well as the production, purchase, transportation, storage, sale of falsified medicines and medical devices, as well as the handling of pathogenic biological agents of I–II pathogenicity groups are carried out without prior notification of the subject of control and supervision.

11. The grounds listed in paragraph 5 of this Article for conducting an unscheduled inspection shall also apply to structural divisions of state bodies, structural divisions of non-resident legal entities, non-resident legal entities operating without registration with the judicial authorities or the registering authority.

12. The decision to suspend the state control and supervision over private business entities for a certain period is taken by the Government of the Republic of Kazakhstan.

13. It is prohibited to conduct other types of inspections not established by this Code, with the exception of inspections provided for by the Code of the Republic of Kazakhstan "On taxes and other obligatory payments to the budget" (Tax Code).

**Footnote. Article 144 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

#### **Article 144-1. Preventive control without visiting the subject (object) of control and supervision**

1. Preventive control without visiting the subject (object) of control and supervision is carried out by control and supervision bodies on the basis of studying and analyzing the reports, submitted by the subject of control and supervision, information from authorized state bodies, as well as those received from state information systems and electronic information resources, and other documents and information about the activities of the subject (object) of control and supervision.

2. In order to carry out preventive control without visiting the subject (object) of control and supervision, the laws of the Republic of Kazakhstan define the procedure for conducting preventive control without visiting the subject (object) of control and supervision with mandatory indication of objectives, tools, methods of conducting, list of subjects (objects), frequency of conducting, method of observation of the subject (object) of control and supervision.

3. Preventive control without visiting the subject (object) of control and supervision is carried out in accordance with this Code and other laws of the Republic of Kazakhstan in compliance with all the following conditions:

1) control and supervision bodies are prohibited from visiting subjects (objects) of control and supervision;



2) registration with the authorized body in the field of legal statistics and special records and prior notification of the subject of control and supervision are not required;

3) based on the results of preventive control without visiting the subject (object) of control and supervision, final documents (certificate, conclusion, recommendations and others) are compiled without initiating a case of an administrative offense in case of a violation, but with a mandatory explanation to the subject of control and supervision of the procedure for its elimination.

4. The results of the analysis of preventive control without visiting the subject (object) of control and supervision are the basis for the selection of subjects (objects) of control and supervision for preventive control with a visit to the subject (object) of control and supervision.

**Footnote. Chapter 13 is supplemented by Article 144-1 in accordance with the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

**Article 144-2. Preventive control with a visit to the subject (object) of control and supervision**

1. Preventive control with a visit to the subject (object) of control and supervision is a control that the control and supervision bodies carry out with a visit to the subject (object) of control and supervision, and according to the results of which, if violations are detected, the subjects of control and supervision are ordered to eliminate them without initiating administrative proceedings, as well as in cases provided for by the laws of the Republic of Kazakhstan apply rapid response measures.

Preventive control with a visit to the subject (object) of control and supervision in relation to a specific subject (object) of control and supervision is carried out provided that in the year preceding this control, preventive control was carried out in relation to this subject (object) of control and supervision without visiting the subject (object) of control and supervision in accordance with paragraph 5 of Article 131 and Article 144-1 of this Code.

2. The frequency of preventive control with a visit to the subject (object) of control and supervision is determined by the control and supervision bodies in relation to subjects (objects) of control and supervision classified as high and medium risk, no more than twice a year.

3. In order to carry out preventive control with a visit to the subject (object) of control and supervision, regulatory state bodies shall develop and, together with the authorized body for entrepreneurship, approve acts concerning risk assessment criteria for the selection of subjects (objects) of control and supervision, checklists that are posted on the Internet resources of regulatory state bodies and other digital platforms with the provision of a security regime.

4. The basis for the appointment of preventive control with a visit to the subject (object) of control and supervision is a semi-annual list of subjects (objects) of control and supervision approved by the first head of the regulatory state body or local executive body, except in the case of the formation of schedules and semi-annual lists in information systems for risk assessment and management in automatic mode.

Semi-annual lists of preventive control with a visit to the subject (object) of control and supervision are formed in relation to the subjects of control and supervision with mandatory indication of the objects in respect of which preventive control with a visit to the subject (object) of control and supervision is assigned.

By December 10 of the year preceding the year of preventive control with a visit to the subject (object) of control and supervision, and by May 10 of the current calendar year, the control and supervision bodies send the approved semi-annual lists of preventive control with a visit to the subject (object) of control and supervision, including in electronic form, to the authorized body in the field of legal statistics and special records for the formation of a semi-annual consolidated list of preventive control with a visit to the subject (object) of control and supervision, with the exception of the case of the formation of schedules and semi-annual lists in the information systems of risk assessment and management in automatic mode.

The form of semi-annual lists of preventive control with a visit to the subject (object) of control and supervision is determined by the Prosecutor General's Office of the Republic of Kazakhstan.

Amendments to the semi-annual lists of preventive control with a visit to the subject (object) of control and supervision are made in accordance with the procedure determined by the Prosecutor General's Office of the Republic of Kazakhstan.

The authorized body in the field of legal statistics and special records places a semi-annual consolidated list of preventive control with a visit to the subject (object) of control and supervision on the Internet resource of the Prosecutor General's Office of the Republic of Kazakhstan until December 25 of the year preceding the year of preventive control with a visit to the subject (object) of control and supervision, and until May 25 of the current calendar year.

On the basis of the semi-annual list of preventive control with a visit to the subject (object) of control and supervision, the control and supervision body is obliged to notify in writing the subject of control and supervision (the head of a legal entity or his authorized person, an individual) about the beginning of preventive control with a visit to the subject (object) of control and supervision at least thirty calendar days prior to its start, indicating the date.

The notification of the beginning of preventive control with a visit to the subject (object) of control and supervision is handed over on purpose, sent in the form of a registered mail with a notification of delivery or by means of an electronic document signed by means of an electronic digital signature to the e-mail address of the subject of control and supervision, if such an address was previously submitted by this subject to the control and supervision body, or in any other available way.

If the subject of control and supervision, who received notification of the beginning of preventive control with a visit to the subject (object) of control and supervision, at the time of preventive control with a visit to the subject (object) of control and supervision has passed

state re-registration in accordance with paragraph 6 of Article 42 of the Civil Code of the Republic of Kazakhstan, the repeated notification of the beginning of preventive control with a visit to the subject (object) of control and supervision is not required.

The provisions of parts seven, eight and nine of this paragraph do not apply to preventive control with a visit to subjects of control and supervision that handle pathogenic biological agents of I and (or) II pathogenicity groups.

5. Following the results of preventive control with a visit to the subject (object) of control and supervision, if violations are detected, the control and supervision body issues an order to the subject (object) of control and supervision on their elimination, indicating the timing of elimination.

Based on the results of preventive control with a visit to the subject (object) of control and supervision, rapid response measures may be applied without bringing to administrative responsibility in accordance with Article 136 of this Code.

6. The provisions of this Article do not apply when carrying out preventive control with a visit to the subject (object) of control and supervision of compliance with the maximum permissible retail prices for socially significant food products.

**Footnote. Chapter 13 is supplemented by Article 144-2 in accordance with the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

### **Article 144-3. Control purchase**

1. The control purchase is understood as the implementation by the control and supervision body of the purchase within the control of products in the form of goods.

Control purchase is an independent type of preventive control, the procedure for which is determined by the legislation of the Republic of Kazakhstan and this article.

2. The control purchase is carried out in order to identify the fact of the sale of products that do not meet the requirements established by regulatory legal acts and (or) regulatory technical documents.

3. The control purchase is confirmed by a payment document containing information on the list of purchased products and the name of the subject (object) of control and supervision.

4. Based on the results of the control purchase, the control and supervision bodies carry out a study of the purchased products for compliance with the requirements established by regulatory legal acts and (or) regulatory technical documents, with the possibility of subsequent application of prohibitive and restrictive measures in accordance with part two of Article 153 of this Code.

5. Control purchase is carried out in those areas of activity where the laws of the Republic of Kazakhstan explicitly provide for this type of preventive control.

6. Expenses, related to the control purchase and research of purchased products are covered at the expense of budgetary funds.

**Footnote. Chapter 13 is supplemented by Article 144-3 in accordance with the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

## **Article 144-4. Investigation**

1. Investigation is an independent form of control, the implementation of which is defined by this article.

2. The objectives of the investigation are:

1) establishing the reasons of violation of the requirements of the legislation of the Republic of Kazakhstan and taking appropriate measures;

2) determination of subjects (objects) of control and supervision that have committed violations of the requirements of the legislation of the Republic of Kazakhstan.

3. The grounds for conducting an investigation are:

1) appeals of individuals and (or) legal entities, as well as state bodies on specific facts of harm to life, human health, the environment and the legitimate interests of individuals and legal entities, the state in cases where such a fact has affected a wide range of persons and it is required to establish a specific subject (object) of control and supervision that has committed violations;

2) information (emergency notification) on the occurrence of death in accordance with the Code of the Republic of Kazakhstan "On the health of the people and the healthcare system";

3) information (emergency notification) submitted by state bodies or business entities on the occurrence and spread of an epidemic, falsified and unregistered pesticides, veterinary drugs, feed additives, foci of quarantine facilities and especially dangerous harmful organisms, infectious, parasitic diseases, poisoning, radiation accidents;

4) cases of damage to the health of employees related to their work and resulting in disability or death;

5) accidents, technological violations or incidents for which there is a need to clarify the circumstances preceding them, to establish their causes, the nature of violations of the operating conditions of technical devices, technological processes, violations of industrial safety requirements in the field of electric power, to determine measures to eliminate the consequences and prevent such accidents, technological violations or incidents, material damage, caused by an accident, technological disruption or incident;

6) the results of a product study based on the results of a control purchase in case of detection of a violation of the requirements established by regulatory legal acts and (or) regulatory technical documents that pose a danger to life, human health and the environment.

4. If there are grounds specified in paragraph 3 of this article, the control and supervision body decides to conduct an investigation.

5. The procedure for conducting an investigation is established by the legislation of the Republic of Kazakhstan.

The procedure for conducting an investigation should include:

1) cases in which an investigation is conducted;

2) terms and duration of the investigation;

3) the terms of notification of the subject of control and supervision, the authorized body in the field of legal statistics and special records, interested state bodies about the beginning of the investigation;

4) the procedure for attracting independent experts and other interested persons;

5) conditions and procedure for the formation of the investigation commission;

6) the procedure for registration of investigation materials.

6. The terms of the investigation should not exceed thirty calendar days and may be extended only once for thirty calendar days.

7. Based on the results of the investigation, the control and supervision bodies define the subject (subjects) of control and supervision who allowed (allowed) violation of the requirements of the legislation of the Republic of Kazakhstan, which became the basis for the investigation.

Following the results of the investigation, measures provided for by the laws of the Republic of Kazakhstan are taken against the subject of control and supervision who committed a violation.

The results of the investigation are published on the Internet resource by the control and supervision body, with the exception of information constituting state secrets or other secret protected by the laws of the Republic of Kazakhstan.

8. The investigation is carried out in those areas of activity where the laws of the Republic of Kazakhstan explicitly provide for such a form of control.

**Footnote. Chapter 13 is supplemented by Article 144-4 in accordance with the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

**Article 145. An act on appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection**

1. Preventive control with a visit to the subject (object) of control and supervision and (or) inspection shall be carried out on the basis of an act of the control and supervision body on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection.

2. The act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection shall specify:

1) number and date of the act;

2) name of the state body;

3) surname, first name, patronymic (if it is indicated in the identity document) and the position of the person (persons) authorized (authorized) to conduct preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

4) information about specialists, consultants and experts involved in carrying out preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

5) the name of the subject of control and supervision or the surname, first name, patronymic (if it is indicated in the identity document) of the individual in respect of whom preventive control is scheduled with a visit to the subject (object) of control and supervision and (or) inspection, its location, identification number, list of objects of control and supervision, a sector of territory;

6) the subject of the prescribed preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

7) the period of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

8) the grounds for conducting preventive control with a visit to the subject (object) of control and supervision and (or) inspection, including regulatory legal acts, mandatory requirements of which are subject to preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

9) the period of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

10) the rights and obligations of the subject of control and supervision provided for in Article 155 of this Code;

11) the signature of the person authorized to sign the acts and the seal of the state body;

12) signature of the head of the legal entity or his authorized person, an individual on receipt or refusal to receive an act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection.

**Footnote. Article 145 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

**Article 146. Registration of an act on appointment, an additional act on extension of the terms of preventive control with a visit to the subject (object) of control and supervision and (or) inspection**

1. An act of appointment, an additional act of extending the terms of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, with the exception of counter inspections carried out by state revenue bodies in accordance with the Code of the Republic of Kazakhstan "On taxes and other obligatory payments to the budget" (Tax Code), in mandatory procedure are registered with the authorized body in the field of legal statistics and special records.

An act of appointment, an additional act of extension of the terms of preventive control with a visit to the subject (object) of control and supervision and (or) inspections are registered in relation to the subject of control and supervision with mandatory indication of the subjects (objects) of control and supervision.

The state revenue bodies, when conducting counter inspections provided for by the Code of the Republic of Kazakhstan "On taxes and other obligatory payments to the budget" (Tax

Code), notify the authorized body in the field of legal statistics and special records at the location of the subject (object) of control and supervision.

Registration of an act on appointment, an additional act on extending the terms of preventive control with a visit to the subject (object) of control and supervision and (or) inspection is of an accounting nature and is used to form and improve departmental risk assessment and management systems.

2. An act of appointment, an additional act of extension of the terms of preventive control with a visit to the subject (object) of control and supervision and (or) inspection shall be registered by the control and supervision body before the start of preventive control with a visit to the subject (object) of control and supervision and (or) inspection in the authorized body in the field of legal statistics and special records by submitting them, including in electronic form, to the territorial body of the authorized body in the field of legal statistics and special records at the location of the subject (object) of control and supervision.

The act on the appointment of an unscheduled inspection on the grounds provided for in subparagraphs 3), 4), 7) and 8) of paragraph 5, paragraphs 8, 9 and 10 of Article 144 of this Code is registered with the authorized body in the field of legal statistics and special records by submitting it, including in electronic form, to the territorial body of the authorized body in the field of legal statistics and special records at the location of the subject (object) of control within the next working day after the day of the start of the unscheduled inspection.

When registering an act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection by the control and supervision body, checklists (if any) are presented indicating the points of requirements subject to preventive control with a visit to the subject (object) of control and supervision and (or) inspection.

The procedure for registration of acts on appointment, additional acts on the extension of the terms of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, refusal to register and cancel them, notifications of suspension, renewal, extension of the terms of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, the change in the composition of participants and the submission of information accounting documents on preventive control with a visit to the subject (object) of control and supervision and (or) inspection and their results is determined by the Prosecutor General's Office of the Republic of Kazakhstan.

3. In the case when the need for preventive control with a visit to the subject (object) of control and supervision and (or) inspection caused by the current socio-economic situation requiring immediate elimination of threats to public order, public health and national interests of the Republic of Kazakhstan is provided for by other laws of the Republic of Kazakhstan, as well as during preventive control with a visit to the subject (object) control and supervision and (or) inspection at off-hours (night time, weekends or holidays) due to the need to suppress violations immediately at the time of their commission and urgent actions to consolidate

evidence, registration of acts on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection is carried out in the authorized body in the field of legal statistics and special records within the next working day after the start of the preventive control with a visit to the subject (object) of control and supervision and (or) inspection.

**Footnote. Article 146 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

**Article 147. Actions of officials of control and supervision bodies in the preventive control with a visit to the subject (object) of control and supervision and (or) inspection**

1. Officials of the control and supervision body who arrived at the facility for preventive control with a visit to the subject (object) of control and supervision and (or) inspection, must present to the subject of control and supervision:

1) an act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection with a note on registration with the authorized body in the field of legal statistics and special records, unless otherwise provided by this Code ;

2) official identification card or identification card;

3) if necessary – permission of the competent authority to visit sensitive facilities;

4) a medical permit, the presence of which is necessary for visiting facilities, issued in accordance with the procedure determined by the authorized body in the field of healthcare.

2. The beginning of preventive control with a visit to the subject (object) of control and supervision and (or) inspection is the date of delivery to the subject of control and supervision (the head of a legal entity or his authorized person, an individual) of the act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, unless otherwise specified by this Code, as well as familiarization of the subject of control and supervision with the checklist (if available) with the indication of the points of requirements, subject to preventive control with a visit to the subject (object) of control and supervision and (or) inspection.

3. In cases of refusal to accept an act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, familiarization with the checklist, as well as obstructing the access of an official of the body carrying out preventive control with a visit to the subject (object) of control and supervision and (or) inspection to the materials necessary to carry out preventive control with a visit to the subject (object) of control and supervision and (or) inspection, a protocol on an administrative offense is drawn up, provided for by Article 462 of the Code of the Republic of Kazakhstan "On Administrative Offenses".

The protocol is signed by an official of the control and supervision body carrying out preventive control with a visit to the subject (object) of control and supervision and (or) inspection, and the head of the legal entity or its authorized person, an individual.



The head of a legal entity or his authorized person, an individual, has the right to refuse to sign the protocol by giving a written explanation of the reason for refusal.

Refusal to receive an act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection is not a reason for the cancellation of preventive control with a visit to the subject (object) of control and supervision and (or) inspection.

Preventive control with a visit to the subject (object) of control and supervision and (or) inspection may be carried out only by the official (persons) who are indicated (indicated) in the act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection.

At the same time, the composition of officials conducting preventive control with a visit to the subject (object) of control and supervision and (or) inspection may be changed by the decision of the control and supervision body, about which the subject of control and supervision and the authorized body in the field of legal statistics and special records is notified before participating in preventive control with a visit to the subject of control and supervision and (or) inspection of persons not specified in the act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, indicating the reason for the replacement.

4. If it is necessary to simultaneously carry out preventive control with a visit to the subject (object) of control and supervision and (or) inspection of several subjects of control and supervision on the same range of issues by one control and supervision body, this body is obliged to issue an act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection on each subject of control and supervision and register it with the authorized body in the field of legal statistics and special records, with the exception of a tax audit conducted on the issues of:

- 1) registration with tax authorities;
- 2) availability of cash registers or a three-component integrated system;
- 3) availability and authenticity of identification means and accounting and control marks;
- 4) the presence of accompanying invoices for goods and compliance of the name, quantity (volume) of goods with the information specified in the accompanying invoices for goods:

when moving, selling and (or) shipping goods on the territory of the Republic of Kazakhstan;

when importing goods into the territory of the Republic of Kazakhstan from the territory of states that are not members of the Eurasian Economic Union and member states of the Eurasian Economic Union;

when exporting goods from the territory of the Republic of Kazakhstan to the territory of states that are not members of the Eurasian Economic Union and member states of the Eurasian Economic Union;

- 5) availability of a license;

- 6) availability of equipment (device) intended for making payments using payment cards;
- 7) the availability of consignment notes for imported goods and the conformity of the name of the goods with the information specified in the consignment notes when checking motor vehicles at transport control posts or internal affairs bodies;
- 8) the availability of documents provided for by regulatory legal acts of the Republic of Kazakhstan adopted in the implementation of international treaties ratified by the Republic of Kazakhstan when exporting goods from the territory of the Republic of Kazakhstan to the territory of the member states of the Eurasian Economic Union and the conformity of goods with the information specified in the documents.

**Footnote. Article 147 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

### **Article 148. Terms of preventive control with a visit to the subject (object) of control and supervision and (or) inspection**

1. The terms of preventive control with a visit to the subject (object) of control and supervision and (or) inspection are established taking into account the volume of upcoming work, as well as the tasks set and should not exceed:

1) for microenterprise entities – no more than five working days and with an extension of up to five working days;

2) for subjects of small, medium and large entrepreneurship, as well as subjects of control and supervision that are not subjects of private entrepreneurship:

when carrying out preventive control with a visit to the subject (object) of control and supervision and (or) inspection of compliance with the requirements – no more than fifteen working days and with an extension for a period of no more than fifteen working days;

during unscheduled inspections – no more than ten working days and with an extension of up to ten working days.

2. The terms of preventive control with a visit to the subject (object) of control and supervision and (or) inspection may be extended only once within the time limits specified in paragraph 1 of this Article by the head of the control and supervision body (or a person performing his duties) only if necessary for:

1) obtaining information from foreign state bodies within the framework of international treaties of the Republic of Kazakhstan;

2) establishing the location of the person in respect of whom preventive control is carried out with a visit to the subject (object) of control and supervision and (or) inspection;

3) obtaining the results of laboratory tests.

In case of extension of the terms of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, the control and supervision body draws up an additional act on the extension of preventive control with a visit to the subject (object) of control and supervision and (or) inspection with registration with the authorized body in the field of legal statistics and special records, in which the number and date of registration of the

previous act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection and the reason for the extension are indicated.

In case of extension of the terms of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, the control and supervision body must notify the subject of control and supervision (the head of a legal entity or his authorized person, an individual), except for the case provided for in subparagraph 2) part one of this paragraph.

Notification of the extension of the terms of preventive control with a visit to the subject (object) of control and supervision and (or) inspection is sent by the control and supervision body one working day before the extension in the form of a registered mail with a notification of delivery or by means of an electronic document signed by means of an electronic digital signature to the e-mail address of the subject of control and supervision, if such an address was previously submitted by this subject to the control and supervision body, or in another available way.

**Footnote. Article 148 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

#### **Article 149. Procedure for sampling products**

1. Sampling of products is carried out during preventive control with a visit to the subject (object) of control and supervision and (or) inspection.

The number of selected product samples is determined in accordance with the requirements of regulatory legal acts and regulatory documents of the Republic of Kazakhstan for products and product testing methods.

2. Sampling of products is carried out by an official of the control and supervision body in the presence of the head or representative of the subject of control and supervision and an authorized person of the subject of control and supervision and is certified by the act of sampling of products.

The selected product samples must be completed, packed and sealed (sealed).

3. The act of sampling of products is drawn up in three copies. All copies of the act are signed by the official of the control and supervision body who selected the product samples, and the head or representative of the subject of control and supervision and the authorized person of the subject of control and supervision.

One copy of the act of sampling of products, together with the reference and samples of products selected properly, is sent to the organization authorized by the legislation of the Republic of Kazakhstan for examination (analysis, testing).

The second copy of the product sampling act remains with the subject of control and supervision.

The third copy of the act of sampling of products is kept by the official of the control and supervision body that carried out the sampling of products.

The act of sampling of products indicates:

1) place and date of compilation;

2) the number and date of the decision of the head of the control and supervision body, on the basis of which the sampling of products is carried out;

3) positions, surnames, first names and patronymics (if they are indicated in identity documents) of officials of the control and supervision body carrying out the sampling of products;

4) the name and location of the subject (object) of control and supervision from which product samples are taken;

5) position and surname, first name, patronymic (if it is indicated in the identity document) of the head or representative of the subject of control and supervision and the authorized person of the subject of control and supervision;

6) list and number of selected product samples with indication of the manufacturer, date of production, batch number, total cost of samples;

7) type of packaging and seal number.

4. The costs associated with the selection of product samples are financed from budgetary funds.

**Footnote. Article 149 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

#### **Article 150. Act on sampling of products**

**Footnote. Article 150 is excluded by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

#### **Article 151. Restrictions on carrying out preventive control with a visit to the subject (object) of control and supervision and (or) inspection**

When conducting preventive control with a visit to the subject (object) of control and supervision and (or) inspection, officials of the control and supervision body are not entitled to:

1) check the fulfillment of requirements not established in the checklists of this control and supervision body, as well as if such requirements do not fall within the competence of the state body on whose behalf these officials act;

2) require the provision of documents, information, product samples, samples of environmental objects and production environment objects, if they are not objects of preventive control with a visit to the subject (object) of control and supervision and (or) inspection or do not relate to the subject of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

3) take samples of products, samples of examination of environmental objects and objects of the production environment for their research, testing, measurements without registration of the act on the selection of these samples, samples in the prescribed form and (or) in an amount exceeding the norms established by national standards, rules for sampling, sampling

and methods of their research, testing, measurements, technical regulations or other normative technical documents, rules and methods of research, testing, measurements valid until the date of their entry into force;

4) disclose and (or) disseminate information obtained as a result of preventive control with a visit to the subject (object) of control and supervision and (or) inspection and constituting a commercial, tax or other secret protected by law, except for cases provided for by the laws of the Republic of Kazakhstan;

5) exceed the established deadlines for preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

6) carry out preventive control with a visit to the subject (object) of control and supervision and (or) inspection of the subject (object) of control and supervision, in respect of which preventive control was previously carried out with a visit to the subject (object) of control and supervision and (or) inspection by its superior (subordinate) body or other state body for one and the same issue for the same period, except for the cases provided for in the sub-paragraphs 3), 4), 5), 6), 7) and 8) of paragraph 5 of Article 144 of this Code;

7) carry out measures of a costly nature in order to carry out preventive control with a visit to the subject (object) of control and supervision and (or) inspection at the expense of the subjects of control and supervision.

**Footnote. Article 151 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

### **Article 152. Procedure for registration of the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection**

1. Based on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection by an official of the control and supervision body, the following are compiled:

1) an act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

2) an order to eliminate the identified violations in cases of violations.

2. The act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection shall specify:

1) date, time and place of drawing up the act;

2) name of the control and supervision body;

3) the date and number of the act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection (additional act on the extension of the term, if any), on the basis of which preventive control was carried out with a visit to the subject (object) of control and supervision and (or) inspection;

4) surname, first name, patronymic (if it is indicated in the identity document) and the position of the person(s) who conducted (conducted) preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

5) name or surname, first name, patronymic (if it is indicated in the identity document) of the subject of control and supervision, the position of the representative of an individual or legal entity who was present during the preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

6) date, place and period of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

7) information on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, including the violations identified, their nature;

8) name of the checklist and the points of the requirements for which violations were revealed;

9) information on familiarization or refusal to familiarize with the act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection of representatives of the subject of control and supervision, as well as persons who were present during the preventive control with a visit to the subject (object) of control and supervision and (or) inspection, their signatures or refusal to sign;

10) signature of the official (persons) who conducted (conducted) preventive control with a visit to the subject (object) of control and supervision and (or) inspection.

3. The act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection shall be accompanied by:

1) an order to eliminate the identified violations in case of violations;

2) acts of sampling of products, surveys of environmental objects and industrial environment objects, protocols (conclusions) of conducted studies (tests) and examinations and other documents or copies thereof related to the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, if available.

4. For each act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, during which violations of the points of the requirements of the checklists were revealed, only one order on the elimination of the detected violations may be issued.

5. The forms of the act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, the act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, orders on the elimination of violations identified are approved by the Prosecutor General's Office of the Republic of Kazakhstan, with the exception of the act (notifications) on the appointment and results of inspections carried out by state revenue bodies.

6. The order on elimination of the revealed violations specifies:

1) date, time and place of drawing up the instruction;

2) name of the control and supervision body;

3) surname, first name, patronymic (if it is indicated in the identity document) and the position of the person(s) who conducted (conducted) preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

4) the name or surname, first name, patronymic (if it is indicated in the identity document) of the subject of control and supervision, the position of the representative of an individual or legal entity who was present during the preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

5) date, place and period of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

6) a list of identified violations in accordance with the points of the requirements of the checklist with mandatory indication of the severity of the violation in accordance with the subjective criteria for assessing the degree of risk;

7) instructions for the elimination of identified violations, indicating the timing of their elimination;

8) information on familiarization or refusal to familiarize with the instruction of the representative of the subject of control and supervision (the head of a legal entity or its authorized person, an individual), as well as persons who were present during preventive control with a visit to the subject (object) of control and supervision and (or) verification, their signatures or refusal to sign;

9) signature of the official (persons) who conducted (conducted) preventive control with a visit to the subject (object) of control and supervision and (or) inspection.

7. The terms of execution of the order on elimination of the revealed violations are determined taking into account the circumstances affecting the real possibility of its execution , but not less than ten calendar days from the date of delivery of the order on elimination of the revealed violations.

Deadlines for the elimination of detected violations are established by the laws of the Republic of Kazakhstan.

When determining the deadlines for the execution of the order to eliminate the identified violations , the following are taken into account:

1) the subject of control and supervision has organizational, technical and financial capabilities to eliminate violations;

2) features of the technical condition of the production facilities used;

3) deadlines for obtaining the appropriate permission from state bodies, local executive bodies or submitting a notification provided for in Annexes 1, 2 and 3 to the Law of the Republic of Kazakhstan "On Permits and Notifications", as well as other mandatory conclusions, approvals and other documents established by the laws of the Republic of Kazakhstan.

If additional time and (or) financial costs are necessary, the subject of control and supervision has the right to apply to the control and supervision body that carried out

preventive control no later than three working days from the date of delivery of the act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) an inspection and an order to eliminate the detected violations with a visit to the subject (object) of control and supervision and (or) an inspection, with an application for an extension of the deadlines for eliminating the identified violations.

In the application, the subject of control and supervision is obliged to state the measures that will be taken to eliminate the identified violations, and the objective reasons for extending the terms of their elimination.

The control and supervision body that carried out preventive control with a visit to the subject (object) of control and supervision and (or) inspection, within three working days from the date of receipt of the application, taking into account the arguments set out in the application for the extension of the time limits for the elimination of identified violations, decides to extend the time limits for the elimination of identified violations or refuse to extend with a reasoned justification.

8. An act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, an order to eliminate the detected violations shall be drawn up in triplicate.

The first copy of the act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, instructions on the elimination of detected violations shall be submitted electronically by the control and supervision body to the authorized body in the field of legal statistics and special records and its territorial bodies, the second copy on paper under signature or in electronic form is handed over to the subject of control and supervision (the head of the legal entity or his authorized person, to an individual) for familiarization and taking measures to eliminate the identified violations and other actions, the third remains with the control and supervision body.

An act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, an instruction on the elimination of detected violations, formed in electronic form, at the choice of the subject of control and supervision, are submitted via the web portal "electronic government" or information systems of the authorized body in the field of legal statistics and special records.

An act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, an order for the elimination of detected violations, formed in electronic form, are sent to the e-mail address specified by the subject of control and supervision.

9. If there are comments and (or) objections based on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, the head of the legal entity or an individual or their representatives shall state comments and (or) objections in writing.



Comments and (or) objections are attached to the act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, about which a corresponding note is made.

10. The seizure of original accounting and other documents is prohibited, unless otherwise provided by part two of this paragraph.

The seizure of original documents are carried out in accordance with the norms of the Criminal Procedure Code of the Republic of Kazakhstan, as well as in cases provided for by the Code of the Republic of Kazakhstan on Administrative Offenses.

11. In the absence of violations of the requirements established by the legislation of the Republic of Kazakhstan, when conducting preventive control with a visit to the subject (object) of control and supervision and (or) inspection, a corresponding entry is made in the act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection.

12. The end of the period of preventive control with a visit to the subject (object) of control and supervision and (or) inspection is the day of delivery to the subject of control and supervision of the act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection no later than the end date of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, specified in the act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection (additional act on the extension of the period, if any).

13. After the expiration of the period for the elimination of the identified violations specified in the order on the elimination of the identified violations, the subject of control and supervision, within the period specified in this order, is obliged to provide to the control and supervision body that conducted preventive control with a visit to the subject (object) of control and supervision and (or) inspection, the information on the elimination of the identified violations.

14. If the subject of control and supervision fails to provide information on the execution of the order on the elimination of violations identified by the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, the control and supervision body within two working days sends the subject of control and supervision a request for the need to provide information on the execution of the order.

In case of failure to provide information on the execution of the order to eliminate the identified violations in accordance with part one of this paragraph, the control and supervision body has the right to appoint an unscheduled inspection in accordance with subparagraphs 1) and 2) of paragraph 5 of Article 144 of this Code, with the exception of control over the execution of the order to eliminate the identified violation based on the results of an unscheduled inspection.

15. In case of early elimination of the detected violations specified in the order on elimination of the detected violations, the subject of control and supervision is obliged to

provide the control and supervision body that conducted preventive control with a visit to the subject (object) of control and supervision and (or) inspection, the information on the elimination of the detected violations.

The subject of control and supervision shall attach (if necessary) materials proving the fact of elimination of the violation to the information provided on the elimination of the detected violations.

In this case, an unscheduled inspection in accordance with subparagraphs 1) and 2) of paragraph 5 of Article 144 of this Code is not required.

**Footnote. Article 152 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

**Article 152-1. The procedure of registration of the results of preventive control and supervision with a visit to the performer (target) of control and supervision**

**Footnote. Chapter 13 is supplemented by the article 152-1 in accordance with the Law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after its official publication); excluded by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

**Article 153. Measures taken by officials of control and supervision bodies on the facts of violations detected during the exercise of control**

**Footnote. The title of Article 153 as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

If, as a result of control and supervision, the fact of violations by the subject (object) of control and supervision of the requirements established by the legislation of the Republic of Kazakhstan in accordance with paragraph 2 of Article 132 and paragraph 3 of Article 143 of this Code is revealed, the official (person) of the control and supervision body within the powers provided for by the legislation of the Republic of Kazakhstan is obliged to take measures provided by the laws of the Republic of Kazakhstan to eliminate the detected violations, prevent them, prevent possible harm to life, human health and the environment, legitimate interests of individuals and legal entities, as well as measures to bring persons who have committed violations to responsibility established by the laws of the Republic of Kazakhstan.

When taking measures of a prohibitive and restrictive nature with respect to the subject (object) of control and supervision, the control and supervision body, in cases and in the manner determined by the laws of the Republic of Kazakhstan, notifies the prosecutor.

**Footnote. Article 153 as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

**Article 154. Rights and obligations of officials of state bodies in the exercise of control**

1. Officials of state bodies when conducting control over subjects (objects) of control and supervision have the right:

1) for unhindered access to the territory and premises of the object of control and supervision upon presentation of the documents specified in paragraph 1 of Article 147 of this Code;

2) to receive copies of documents (information) on paper and electronic media to attach to the act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection or to the order on the elimination of violations identified following the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, as well as access to automated databases (information systems) in accordance with the subject of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

3) to carry out audio, photo and video shooting;

4) to use records of technical means of control, monitoring and recording devices, photo and video equipment related to the subject of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

5) to involve specialists, consultants and experts of state bodies and subordinate organizations.

2. Officials of control and supervision bodies carrying out preventive control with a visit to the subject (object) of control and supervision and (or) inspection are prohibited from making demands and making requests that are not related to the subject of preventive control with a visit to the subject (object) of control and supervision and (or) inspection.

3. Officials of control and supervision bodies, when conducting preventive control with a visit to the subject (object) of control and supervision and (or) inspection, are obliged to:

1) comply with the legislation of the Republic of Kazakhstan, the rights and legitimate interests of subjects of control and supervision;

2) carry out preventive control with a visit to the subject (object) of control and supervision and (or) inspection on the basis and in strict accordance with the procedure established by this Code and (or) other laws of the Republic of Kazakhstan;

3) not to interfere with the established mode of operation of subjects (objects) of control and supervision during the period of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

4) timely and fully execute the powers granted in accordance with the laws of the Republic of Kazakhstan to prevent, detect and suppress violations of the requirements established by the legislation of the Republic of Kazakhstan in accordance with paragraph 2 of Article 132 and paragraph 3 of Article 143 of this Code;

5) not to prevent the subject of control and supervision or its authorized representative from being present during the preventive control with a visit to the subject (object) of control and supervision and (or) inspection, to give explanations on issues related to the subject of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

6) provide the subject of control and supervision with the necessary information related to the subject of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

7) hand over to the subject of control and supervision an act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, in cases of violations – an order to eliminate the identified violations based on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection on the day of their completion or in accordance with the procedure and terms established by the Law of the Republic of Kazakhstan "On state regulation, control and supervision of the financial market and financial organizations";

8) ensure the safety of documents and information obtained as a result of preventive control with a visit to the subject (object) of control and supervision and (or) inspection.

**Footnote. Article 154 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

**Article 155. Rights and obligations of the subject of control and supervision or its authorized representative in the implementation of preventive control with a visit to the subject (object) of control and supervision and (or) inspection**

1. The subjects of control and supervision or their authorized representatives, when carrying out preventive control with a visit to the subject (object) of control and supervision and (or) inspection, have the right:

1) to prevent preventive control with a visit to the subject (object) of control and supervision and (or) inspection of officials of control and supervision bodies who arrived to conduct preventive control with a visit to the subject (object) of control and supervision and (or) inspection of the object, in the following cases:

non-compliance of the frequency of preventive control with a visit to the subject (object) of control and supervision and (or) inspection with the requirements specified in the regulatory legal acts of the Republic of Kazakhstan approved in accordance with Article 141 of this Code;

exceeding or expiration of the terms specified in the act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection (additional act on the extension of the term, if any), which do not correspond to the terms established by this Code;

appointment by the control and supervision body of preventive control with a visit to the subject (object) of control and supervision and (or) inspection of the subject (object) of control and supervision, in respect of which preventive control was previously carried out with a visit to the subject (object) of control and supervision and (or) inspection on the same issue for the same period, except for the cases provided for in the sub-paragraphs 3), 4), 5), 6), 7) and 8) of paragraph 5 of Article 144 of this Code;

appointment of an unscheduled inspection in accordance with subparagraph 1) of paragraph 5 of Article 144 of this Code, if gross violations were not detected by the previous preventive control with a visit to the subject (object) of control and supervision;

absence of information and documents provided for in Articles 141, 143 and paragraph 1 of Article 146 of this Code;

appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection for a period beyond the time period specified in the application or report on committed or pending criminal offenses, in other appeals about violations of the rights and legitimate interests of individuals, legal entities and the state;

instructions for carrying out preventive control with a visit to the subject (object) of control and supervision and (or) inspection to persons who do not have the appropriate authority to do so;

instructions in one act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection of several subjects of control and supervision subject to preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

extension of the terms of preventive control with a visit to the subject (object) of control and supervision and (or) inspection beyond the period established by this Code;

gross violations of the requirements of this Code in accordance with paragraph 2 of Article 156 of this Code;

2) not to submit documents and information if they do not relate to the subject of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, as well as to the period specified in the act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

3) to appeal the act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, the act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, the order on the elimination of violations identified following the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, as well as actions (inaction) of officials of control and supervision bodies in accordance with the procedure established by this Code and the legislation of the Republic of Kazakhstan;

4) not to comply with prohibitions of control and supervision bodies or officials not based on the law that restrict the activities of subjects (objects) of control and supervision;

5) to record the process of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, as well as individual actions of an official carried out by him within the framework of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, using audio and video equipment, without creating obstacles to the activity of an official;

6) to involve third parties to participate in preventive control with a visit to the subject (object) of control and supervision and (or) inspection in order to represent their interests and rights, as well as the implementation by third parties of the actions provided for in subparagraph 5) of this paragraph.

2. Subjects of control and supervision or their authorized representatives, when conducting preventive control by control and supervision bodies with a visit to the subject (object) of control and supervision and (or) inspection, are obliged to:

1) ensure unhindered access of officials of control and supervision bodies to the territory and premises of the subject (object) of control and supervision in compliance with the requirements of paragraph 1 of Article 146 of this Code;

2) in compliance with the requirements for the protection of commercial, tax or other secrets protected by law, provide officials of control and supervision bodies with copies of documents (information) on paper and electronic media to attach to the act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection and the order to eliminate the identified violations, and also provide access to automated databases (information systems) in accordance with the subject of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

3) to make a note of receipt on the second copy of the act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

4) to make a note of receipt on the second copy of the act on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection on the day of the end of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

5) to make a note of receipt on the second copy of the order on the elimination of the identified violations based on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

6) to prevent amendments and additions to the documents being checked during the period of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, unless otherwise provided by this Code or other laws of the Republic of Kazakhstan;

7) to ensure the safety of persons who arrived for preventive control with a visit to the subject (object) of control and supervision and (or) inspection of the object, from harmful and dangerous industrial factors of influence in accordance with the standards established for this object;

8) in case of receiving a notification of the beginning of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, be at the location of the object of control and supervision at the appointed time of preventive control with a visit to the subject (object) of control and supervision and (or) inspection.

**Footnote. Article 155 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

**Article 156. Invalidity of preventive control with a visit to the subject (object) of control and supervision and (or) inspections conducted in gross violation of the requirements of this Code**

1. Preventive control with a visit to the subject (object) of control and supervision and (or) inspections shall be deemed invalid if it is carried out by the control and supervision body with a gross violation of the requirements for the organization and conduct of preventive control with a visit to the subject (object) of control and supervision and (or) inspection established by this Code.

An act of preventive control with a visit to the subject (object) of control and supervision and (or) inspection and an order to eliminate the violations identified following the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, recognized as invalid, cannot be evidence of violation of the requirements made by the subjects of control and supervision established in accordance with paragraph 2 of Article 132 and paragraph 3 of Article 143 of this Code.

The recognition of preventive control with a visit to the subject (object) of control and supervision and (or) inspection as invalid is the basis for the cancellation by a higher state, including collegial body or court of the act of this preventive control with a visit to the subject (object) of control and supervision and (or) inspection, the order to eliminate the identified violations based on the results of preventive control with a visit to the subject (object) of control and supervision and (or) inspection.

Consideration by a higher state body of the application of the subject of control and supervision on the cancellation of the act in connection with the invalidity of preventive control with a visit to the subject (object) of control and supervision and (or) inspection, the cancellation of the order to eliminate the identified violations in connection with the invalidity of preventive control with a visit to the subject (object) of control and supervision and (or) inspection is carried out within ten working days from the date of submission of the application.

Violation of the established deadline for consideration of such an application is decided in favor of the subject of control and supervision.

2. Gross violations of the requirements of this Code include:

- 1) the absence of grounds for preventive control with a visit to the subject (object) of control and supervision and (or) inspection;
- 2) the absence of an act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;
- 3) absence of notification, as well as non-compliance with the deadlines for notification of the beginning of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;
- 4) violation of the requirements of Article 151 of this Code;

5) violation of the frequency of preventive control with a visit to the subject (object) of control and supervision and (or) inspection of compliance with the requirements specified in the regulatory legal acts of the Republic of Kazakhstan approved in accordance with Article 141 of this Code;

6) failure to submit to the subject of control and supervision an act on the appointment of preventive control with a visit to the subject (object) of control and supervision and (or) inspection;

7) appointment by the control and supervision bodies of preventive control with a visit to the subject (object) of control and supervision and (or) inspection on issues not within their competence;

8) carrying out preventive control with a visit to the subject (object) of control and supervision and (or) inspection without registration of the act of preventive control with a visit to the subject (object) of control and supervision and (or) inspection in the authorized body in the field of legal statistics and special records, when such registration is mandatory;

9) violation of the terms of preventive control with a visit to the subject (object) of control and supervision and (or) inspection provided for in Article 148 of this Code;

10) carrying out preventive control with a visit to the subject (object) of control and supervision without conducting preliminary preventive control without visiting the subject (object) of control and supervision in accordance with paragraph 5 of Article 131 of this Code.

**Footnote. Article 156 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

### **Article 157. Procedure for appealing decisions, actions (inaction) of control and supervision bodies and their officials**

1. In case of violation of the rights and legitimate interests of subjects of control and supervision in the exercise of control, the subject of control and supervision has the right to appeal decisions, actions (inaction) of control and supervision bodies and their officials to a higher state body in the manner provided for by Chapter 29 of this Code, or to a court in the manner established by the legislation of the Republic of Kazakhstan.

2. Appeal of decisions, actions (inaction) of control and supervision bodies and their officials related to the investigation of a criminal case shall be carried out by the subject of control and supervision in accordance with the procedure established by the Criminal Procedure Code of the Republic of Kazakhstan.

**Footnote. Article 157 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 No. 95-VII (shall be enforced from 01.01.2023).**

### **Paragraph 3. Control over compliance with the terms of investment contracts**

**Footnote. Paragraph 3 is excluded by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**



## SECTION 4. ECONOMIC COMPETITION Chapter 14. COMPETITION

### **Article 160. Objectives of state regulation of competition**

The objectives of state regulation of competition are the protection of competition, the maintenance and creation of favorable conditions for fair competition in the commodity markets of the Republic of Kazakhstan and the effective functioning of commodity markets, ensuring the unity of the economic space, the free movement of goods and the freedom of economic activity in the Republic of Kazakhstan, regulation and restriction of monopolistic activities in accordance with this Code, promoting fair competition and preventing violations of the legislation of the Republic of Kazakhstan in the field of protection of competition, preventing anti-competitive actions of state and local executive bodies, organizations endowed with state functions of regulating the activities of market entities and unfair competition.

**Footnote. Article 160 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017).**

### **Article 161. Relations in the field of state regulation of competition**

1. This section applies to relationships that influence or shall affect competition in the commodity markets of the Republic of Kazakhstan, in which market entities, consumers, as well as state bodies and local executive bodies participate. In this case, a consumer is an individual or legal entity who purchases goods for their own needs.

2. The provisions of this section also apply to actions performed by a market entity outside the territory of the Republic of Kazakhstan, if one of the following conditions is fulfilled as a result of such actions:

1) the fixed assets and (or) intangible assets or shares (equity interest in authorized capital) of market entities, property or non-property rights in relation to legal entities of the Republic of Kazakhstan are directly or indirectly affected;

2) the competition in the Republic of Kazakhstan is limited.

### **Article 162. Concept of competition**

1. The competition is the competitiveness of market entities, in which their independent actions effectively limit the ability of each of them to unilaterally influence the general conditions of circulation of goods in the relevant commodity market.

2. The competition is based on the principles of competition, honesty, legality, and respect for the rights of consumers, which are applied in the same way, equally and on equal terms to all market entities, regardless of the organizational and legal form and place of registration of such market entities.

### **Article 163. State competition policy**

1. The anti-monopoly body is a state body that exercises leadership in the field of protecting competition and restricting monopolistic activity, controlling and regulating activities related to the state monopoly.

2. The antimonopoly body shall develop proposals for the formation of state policy in the field of protection of competition and restriction of monopolistic activity.

3. The central and local executive bodies shall participate in the implementation of state policy in the field of competition within their competence as defined by this Code and other legislation of the Republic of Kazakhstan.

4. Within their competence, state bodies shall be obliged to take measures to promote competition in the implementation of state policy in relevant sectors of the economy and not to take actions (inaction) that adversely affect competition.

**Footnote. Article 163 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017).**

#### **Article 163-1. Compulsory services provided by natural monopoly entities and quasipublic sector**

1. In order for safety of production certain types of goods, works, services, the natural monopoly entities and quasipublic sector shall provide compulsory services to individuals and legal entities provided by the legislation of the Republic of Kazakhstan.

2. By compulsory services shall be understood the activities (actions, processes) carried out by natural monopoly entities and (or) quasipublic sector, which shall be mandatory for individuals and legal entities in accordance with the legislation of the Republic of Kazakhstan, and also confirm their right to carry out their activities or actions (operations), and non-receipt of such services shall entail an administrative or civil responsibility.

3. When providing mandatory services to individual and legal entities, subjects of natural monopolies and the quasi-public sector use informatization objects, and also submit data in machine-readable form to the objects of informatization of the "electronic government" in accordance with the Rules for provision of mandatory services by subjects of natural monopolies and the quasi-public sector in the framework of competition protection and restriction of monopolistic activity.

**Footnote. Chapter 14 is supplemented by Article 163-1 in accordance with the Law of the Republic of Kazakhstan No. 156-VI dated 24.05.2018 (shall be enforced from 01.01.2019); as amended by the Law of the Republic of Kazakhstan dated 05.04.2023 No. 221-VII (shall be enforced from 01.07.2023).**

#### **Article 164. Market entity**

The market entities are:

- 1) an individual engaged in entrepreneurial activities;
- 2) a legal entity of the Republic of Kazakhstan or its branch, which is an independent taxpayer (with the exception of financial organizations), carrying out entrepreneurial activities ;
- 3) a foreign legal entity (its branch and representative office) engaged in entrepreneurial activities;

4) a non-profit organization carrying out entrepreneurial activities in accordance with its statutory objectives.

**Footnote. Article 164 as amended by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

### **Article 165. Group of persons**

1. The group of persons is an aggregate of individuals and (or) legal entities that correspond to one or more of the following characteristics:

1) a market entity and an individual or legal entity, if such an individual or such legal entity has, by virtue of its participation in this market entity or in accordance with the powers received, including on the basis of a written agreement, from other persons, the right to dispose more than fifty percent of the total number of votes attributable to voting shares (equity interest in authorized capital, shares) of this market entity;

2) a market entity and an individual or legal entity, if such an individual or such legal entity performs the functions of the sole executive body of the this market entity;

3) a market entity and an individual or legal entity, if such an individual or such legal entity, on the basis of the constituent documents of this market entity or the contract concluded with this market entity, has the right to give instructions to this market entity;

4) legal entities in which more than fifty percent of the quantitative composition of the collegial executive body and (or) the board of directors (supervisory board, board of the fund) are the same individuals;

5) a market entity and an individual or legal entity, if upon the proposal of such an individual or such legal entity a sole executive body of the this market entity is appointed or elected;

6) a market entity and an individual or legal entity, if, at the proposal of such an individual or such legal entity, more than fifty percent of the number of members of the collegial executive body or the board of directors (supervisory board) of this market entity is elected;

7) an individual, his/her spouse, parents (including adoptive parents), children (including adopted children), full- and half-blood siblings;

8) persons, each of which, for any of the sub-paragraphs 1), 2), 3), 4), 5), 6) and 7) of this paragraph, belongs to a group with the same person, as well as other persons entering with any of such persons in the group on any of the grounds indicated in sub-paragraphs 1), 2), 3), 4), 5), 6) and 7) of this paragraph;

9) a market entity, individuals and (or) legal entities that, for any of the items indicated in sub-paragraphs 1), 2), 3), 4), 5), 6), 7) and 8) of this paragraph, include to a group of persons, if such persons, by virtue of their joint participation in this market entity or in accordance with powers received from other persons, have the right to control more than fifty percent of voting shares (stakes in the authorized capital, units) of this market entity.

2. The group of persons is considered as a unified market entity. The provisions of this section relating to market entities apply to a group of persons.

#### **Article 166. Affiliates of legal entities**

1. For the purposes of this section, under affiliates of legal entities, more than fifty percent of whose shares (equity interest in authorized capital) owned by the state are understood to be legal entities in which more than fifty percent of shares (stakes in the authorized capital) directly or indirectly belong to legal entities, more than fifty percent of whose shares (stakes in the authorized capital) belong to the state.

2. The indirect affiliation means the ownership by each subsequent affiliated person of more than fifty percent of the shares (stakes in the authorized capital) of another legal entity.

### **Chapter 15. MONOPOLISTIC ACTIVITY**

#### **Article 167. Concept and kinds of monopolistic activity**

1. The monopolistic activity is the activity of market entities, whose position makes it possible to control the relevant commodity market, including making it possible to have a significant impact on the general conditions of circulation of goods in the relevant commodity market.

2. The monopolistic activities limited by this Code include:

- 1) anti-competitive agreements of market entities;
- 2) anti-competitive concerted actions of market entities;
- 3) abuse of dominant or monopolistic position.

#### **Article 168. Types of anti-competitive agreements and concerted practices**

1. Anti-competitive agreements or concerted actions between market players that are competitors (market players selling or buying goods in the same product market) or potential competitors shall be horizontal.

The competitor is the market entity who is in a state of competition with other entities of the relevant market due to the fact that it produces and (or) sells the goods in the relevant commodity market that is similar or interchangeable with the goods of market entities.

The potential competitor is recognized as a market entity that has the ability (owns equipment, technology) to produce and (or) sell the goods that is similar or interchangeable with a competitor's goods, but does not produce and does not sell it in the relevant commodity market.

2. The anti-competitive agreements between non-competing market entities, one of which purchases the goods and the other provides the goods or is its potential seller (supplier), are vertical.

**Footnote. Article 168 as amended by Law of the RK No. 101-VII of 03.01.2022 (shall take effect upon expiry of sixty calendar days after its first official publication).**

#### **Article 169. Anti-competitive agreements**

1. It is recognized as a cartel and horizontal agreements between market entities are prohibited if such agreements result or may lead to:

1) the establishment or maintenance of prices (tariffs), discounts, extra charges (extra payments) and (or) markups;

2) increase, decrease or maintain prices at the auctions, distort the results of trades, auctions and contests, including by dividing by lots;

3) the division of the commodity market on a territorial basis, the volume of sale or purchase of goods, the range of goods sold or the composition of sellers or customers (clients) ;

4) the reduction or termination of the goods production;

5) the refusal to conclude contracts with certain sellers or customers (clients).

The provisions of sub-paragraph 2) of the first part of this paragraph apply, including, but not limited to agreements between market entities belonging to the same group of persons.

2. The vertical agreements between market entities shall be prohibited if:

1) such agreements result or may lead to the establishment of the resale price of the goods , unless the seller establishes for the customer (client) the maximum resale price of the goods;

2) such an agreement provides for the obligation of the customer (client) not to sell the goods of a market entity that is a competitor of the seller. This prohibition does not apply to agreements on the organization by the customer of the sale of goods under a trademark or other means of individualization of the customer or producer;

3) such an agreement provides for the seller's obligation not to sell goods to a market entity that is a competitor of the customer (client).

3. It is prohibited and recognized as invalid in full or in part in the manner prescribed by the legislation of the Republic of Kazakhstan, agreements reached in any form between market entities that lead or may lead to restriction of competition, including concerning:

1) the establishment or maintenance of discriminatory conditions to equivalent contracts with other market entities, including the establishment of agreed terms for the purchase and ( or) sale of goods;

2) economically, technologically and otherwise unreasonable establishment by market entities of different prices (tariffs) for the same product;

3) unreasonable restriction or termination of the sale of goods;

4) the conclusion of contracts subject to the acceptance by counterparties of additional obligations which, by their content or according to traditional business practice, do not concern the subject of these contracts (unreasonable requirements for the transfer of funds and other property, property or non-property rights);

5) the restrictions on access to the commodity market or elimination from it of other market entities as sellers (suppliers) of certain goods or their customers.

The prohibitions established by the first part of this paragraph do not apply to vertical agreements if the share of the market entity (s) in one of the considered commodity markets

does not exceed twenty percent, with the exception of vertical agreements when organizing and conducting procurement of goods and trades or -public-private partnership agreement, including concession agreements, integrated entrepreneurial license (franchise).

4. The anti-competitive agreements shall be concluded (achieved) in written and (or) oral form.

5. The coordination of actions of market entities by a third party who is not in the same group of persons with one of these market entities and who does not operate in the commodity market (s) in which the actions of market entities are coordinated, is recognized as coordination of economic activity. The coordination of economic activities of market entities that may lead, resulting in or leading to the consequences listed in paragraphs 1-3 of this Article, is prohibited.

6. The prohibitions on anticompetitive agreements do not apply to agreements between market entities that belong to one group of persons, if one of these market entities has control over another market entity, as well as if such market entities are under the control of one person.

The control is the ability of an individual or legal entity, directly or indirectly (through a legal entity or through several legal entities) to determine decisions made by another legal entity, through one or several of the following actions:

1) the disposal of more than fifty percent of voting shares (stakes in the authorized capital, units) of the legal entity;

2) the exercise of the functions of the executive body of the legal entity;

3) obtaining the right to determine the conditions for conducting entrepreneurial activities of market entities or to give these market entities mandatory instructions in accordance with a public-private partnership agreement, a comprehensive business license (franchising), a license agreement or other agreement between the copyright holder (a person authorized by the copyright holder) and market participants on the organization of the sale of goods under a trademark or other means of individualization of the copyright holder.

7. The requirements of this Article do not apply to agreements on the exercise of exclusive rights to the results of intellectual activity and equated to them means of individualization of the legal entity, means of individualization of goods, provided that such agreements have not led or cannot lead to restriction or elimination of competition.

8. The agreements provided for by this Article, with the exception of those specified in paragraph 1 of this Article, shall be deemed admissible if they do not impose restrictions on the market entities that are not necessary to achieve the objectives of these agreements and do not create the opportunity to eliminate competition in the relevant commodity market, and if market entities prove that such agreements have or may result in:

1) the assistance in improving the production (sale) of goods or stimulating technical (economic) progress or increasing the competitiveness of goods produced by the parties in the world commodity market;

2) consumers receiving a proportionate part of the benefits (profits) that are acquired by the relevant persons from commitment of such actions.

Footnote. Article 169 as amended by the Laws of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 268-VI dated October 28, 2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

**Article 169-1. The requirements for the protection of competition in the organization and conduct of procurement of goods and trades**

1. The organizers of the procurement of goods, procurement operators and trade operators are prohibited from coordinating the activities of procurement suppliers and participants in trades, if this action leads or may lead to the prevention, restriction or elimination of competition.

2. The organizers of the procurement of goods shall be understood as:

1) government bodies, government agencies, with the exception of the National Bank of the Republic of Kazakhstan and its departments;

2) state-owned enterprises, legal entities, fifty and more percent of voting shares (stakes in the authorized capital) owned by the state, and legal entities affiliated with them, national managing holdings, national holdings, national companies and organizations, fifty or more percent of shares (stakes in the authorized capital) which are directly or indirectly owned by the national managing holding, national holding, national company, with the exception of organizations owned by the National Bank of the Republic of Kazakhstan, and legal entities, fifty or more percent of voting shares (stakes in the authorized capital) owned by the National Bank of the Republic of Kazakhstan or are in his confidential management;

3) subsoil users, mining at large mineral deposits and purchasing goods in the manner established by the legislation of the Republic of Kazakhstan on Subsoil and Subsoil Use;

4) subjects of natural monopolies to whom the tariff has been approved using the cost method of tariff regulation and who purchase goods in accordance with the procedure established by the legislation of the Republic of Kazakhstan on natural monopolies, with the exception of subjects of low-capacity natural monopolies.

3. The procurement and trade operators shall be understood as persons who carry out organizational and technical support for purchases and trades by directly conducting them using trade or information systems, commodity exchanges and other trading platforms, with the exception of individuals who carry out organizational and technical support for purchases and tenders using trade or information systems, commodity exchanges and other trading platforms for the implementation of own property and (or) the acquisition of goods (works, services) for own needs and (or) the needs of market entities, entering with them in the same group.

The procurement and trade operators specified in the first part of this paragraph include:

1) the state bodies, state institutions, state enterprises, legal entities, fifty and more percent of voting shares (stakes in the authorized capital) owned by the state, and legal entities affiliated with them, national managing holdings, national holdings, national companies and organizations, fifty and more percent of shares (stakes in the authorized capital) of which are directly or indirectly owned by the national managing holding, national holding, national company;

2) the commodity exchanges and other trading platforms and systems where contracts for the sale of goods between market entities, between state bodies or public institutions and market entities are concluded.

4. The organizers of the procurement of goods, with the exception of procurement conducted in electronic form, and the subsoil users indicated in sub-paragraph 3) of paragraph 2 of this Article, who provide information on the procurement to the authorized state bodies and (or) authorized organizations in accordance with the legislation of the Republic of Kazakhstan shall provide to the anti-monopoly body:

1) the annual procurement plan not later than one month from the date of its approval, except for the case of posting it on the corresponding Internet resource;

2) the information on purchases made in the form approved by the anti-monopoly body, quarterly no later than the tenth day of the month following the reporting quarter.

5. The authorized state bodies and (or) authorized organizations that receive procurement information from subsoil users indicated in sub-paragraph 3) of paragraph 2 of this Article are required to provide permanent access to the information system of electronic procurement of goods or, in its absence, upon request of the anti-monopoly body on purchases made in accordance with the form approved by the anti-monopoly body, quarterly no later than the tenth day of the month following the reporting quarter.

6. The operators of procurement and trades, with the exception of purchases and tenders held in electronic form, provide the anti-monopoly body with information on the trades held quarterly no later than the tenth day of the month following the reporting quarter.

7. The operators of procurement and trades conducted in electronic form, at the request of the anti-monopoly body, shall provide constant access to:

1) to trade or information systems, commodity exchanges and other trading platforms for electronic procurement of goods or trades, allowing real-time monitoring of the procurement of goods and trades;

2) to documentation and other information relating to the procurement and trades process.

**Footnote. Chapter 15 is supplemented by the article 169-1 in accordance with the Law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI (shall be enforced upon the expiry of ten calendar days after its official publication); as amended by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

**Article 170. Anti-competitive concerted actions of market entities**



1. The concerted actions of market entities engaged in the production, sale of goods aimed at restricting competition, shall be prohibited including those concerning:

1) the establishment and (or) maintenance of prices or other conditions for the purchase or sale of good;

2) the unreasonable restrictions on the production or sale of goods;

3) the unreasonable refusal to conclude contracts with certain sellers (suppliers) or customers;

4) the application of discriminatory conditions to equivalent contracts with other entities.

2. The actions of market entities indicated in paragraph 1 of this Article may be deemed to be agreed if they satisfy in aggregate the following conditions:

1) these actions limit competition;

2) the result of such actions corresponds to the interests of each of the market entities;

3) the actions of market entities shall be known in advance to each of them in connection with the public announcement of one of them or the public publication of information by one of them about the commission of such actions;

4) the actions of each of the specified market entities are caused by the actions of other market entities participating in concerted actions;

5) the actions of market entities shall not be the result of circumstances that equally affect these market entities (amendments in tax and other legislation of the Republic of Kazakhstan, the dynamics of consumption, tariffs for services of natural monopolies entities, prices for raw materials and goods used in the production and sale of goods);

6) the total share of market entities in the relevant commodity market is thirty-five or more percent. In this case, the minimum value of the share of one market entity in the relevant commodity market should be five or more percent.

3. The actions of the market entities indicated in paragraph 1 of this Article shall be recognized as agreed regardless of the existence of a written agreement.

4. The concerted actions are allowed if they are committed by market entities that belong to the same group of persons and are aimed at:

1) improving the production (sale) of goods by introducing advanced technologies, standardization, quality control systems, environmental protection, providing consumers with a proportionate part of the benefits;

2) the development of small and medium enterprises;

3) development and application of standardization documents.

**Footnote. Article 170 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); No. 184-VI dated 05.10.2018 (shall be enforced upon expiry of six months after its first official publication); No. 268-VI dated October 28, 2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).**

**Article 171. Preliminary consideration of the draft of an agreement of market entities**

1. The market entities with an intention to reach an agreement that shall be deemed admissible in accordance with Article 169 of this Code are entitled to apply to the anti-monopoly body with a statement to verify that the draft of the agreement complies with the requirements of Article 169 of this Code with the necessary documents attached in electronic form.

2. The anti-monopoly body shall decide on the compliance or non-compliance of the draft of the agreement of market entities with the requirements of Article 169 of this Code within thirty calendar days from the date of receipt of the application indicated in paragraph 1 of this Article.

**Footnote. Article 171 as amended by the Law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

### **Article 172. Dominant or monopolistic position**

1. The dominant or monopolistic position is the position of a market entity or several market entities in the relevant commodity market, giving the market entity or several market entities the ability to control the relevant commodity market, including having a significant impact on the general conditions of goods circulation.

2. The dominant position of a market participant shall be determined pursuant to the Methodology for Analysis of Competition in a Commodity Market, approved by the anti-monopoly authority.

3. The position of a market entity whose share in the relevant commodity market is thirty-five percent or more is recognized as dominant if the following circumstances are established in relation to such market entity:

1) the ability of a market entity to unilaterally determine the level of the price of goods and have a decisive influence on the general conditions for the sale of goods on the commodity market;

2) the presence of economic, technological, administrative or other restrictions on access to the commodity market;

3) the duration of the existence of the possibility of a market entity to have a decisive influence on the general conditions of goods circulation in the commodity market.

In the event that a market entity holds a share of fifty percent or more, the position of the market entity is recognized as dominant without taking into account the circumstances listed in sub-paragraphs 1), 2) and 3) of the first part of this paragraph.

4. The position of each of several market entities is recognized as dominant if the total share of no more than three market entities that own the largest shares in the relevant commodity market is fifty or more percent or the total share of no more than four market entities that own the largest shares in the relevant commodity market is seventy or more percent if the following circumstances are established in relation to such market entity:

1) for a long period (for at least one year or, if such a period is less than one year, during the life of the relevant commodity market), the relative sizes of the shares of market entities are unchanged or subject to minor changes;

2) the goods sold or acquired by market entities shall not be replaced by another goods for consumption (including consumption for production purposes);

3) information on the price and (or) on the conditions for the sale of this goods in the relevant commodity market is available to an indefinite circle of persons.

5. The dominant position of financial organizations shall be recognized if:

1) the cumulative share of no more than two financial organizations that own the largest shares in the relevant financial services market is fifty percent or more;

2) the aggregate share of no more than three financial organizations that own the largest shares in the relevant financial services market is seventy or more percent.

6. The dominant in accordance with paragraphs 4 and 5 of this Article shall not be recognized as the position of the market entity, whose share in the relevant commodity market, including the financial services market, does not exceed fifteen percent.

7. The position of natural monopoly entities, state monopoly entities, special right entities, as well as market entities with one hundred percent dominance on the relevant product market (entities with a monopoly position).

8. The market entity shall be entitled to submit to the anti-monopoly body evidence that the position of this market entity in the commodity market shall not be recognized as dominant.

The anti-monopoly body within fifteen working days from the date of receipt reviews the evidence submitted and makes the appropriate decision, which is sent to the market entity.

**Footnote. Article 172 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); No. 101-VII of 03.01.2022 (see Article 2 for the enactment procedure).**

### **Article 173. Formation and maintenance of the state register of market entities holding a dominant or monopolistic position in regulated markets**

**Footnote. Article 173 was valid until 01.01.2017 in accordance with the Code of the Republic of Kazakhstan dated 29.10.2015 No. 375-V.**

### **Article 174. Abuse of dominant or monopolistic position**

It is prohibited to act (inact) to market entities that occupy a dominant or monopolistic position, which led or lead to restriction of access to the relevant commodity market, prevent, restrict and eliminate competition and (or) impair the legal rights of a market entity or an indefinite number of consumers, including:

1) the establishment, maintenance of monopoly high (low) or monopsony low prices;

2) the application of different prices or different conditions to equivalent agreements with market entities or consumers without objectively justified reasons, except for cases when the use of different prices is due to different costs of production, sale and delivery of goods,

non-discriminatory use of a discount system that takes into account sales volumes, terms of payment, terms of the contract;

3) the establishment of restrictions on the resale of goods purchased from him on a territorial basis, a circle of customers, conditions of purchase, as well as quantity, price;

4) condition or impose the conclusion of an agreement by the market entity or the consumer of additional obligations that, by their content or according to traditional business practice, do not relate to the subject of these agreements;

5) unreasonable refusal to conclude a contract or to sell goods with individual customers if at the time of the appeal the possibility of production or sale of the relevant goods or evasion, expressed in failure to respond to the proposal to conclude such a contract in a period exceeding thirty calendar days.

In this case, a refusal or evasion is considered justified if at the time of the consumer's request there is no required volume of goods produced or sold, including in connection with the conclusion of contracts for the sale of the relevant goods;

6) the conditionality of the supply of goods by the acceptance of restrictions on the purchase of goods produced or sold by competitors;

7) unreasonable reduction in production and (or) supply or termination of production and (or) supply of goods for which there is a demand or orders from consumers, market entities in the presence of the possibility of production or supply;

8) withdrawal of goods from circulation, if the result of such withdrawal was an increase in the price of the goods;

9) the imposition of a counterparty economically or technologically unreasonable terms of the contract, not related to the subject of the contract;

10) the creation of barriers to access to the commodity market or exit from the commodity market to other market entities;

11) economically, technologically or otherwise unreasonable establishment of different prices (tariffs) for the same product, the creation of discriminatory conditions;

12) failure to provide equal access to key capacity.

**Footnote. Article 174 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 101-VII of 03.01.2022 (shall come into force sixty calendar days after the date of its first official publication).**

### **Article 175. Monopolistically high and monopoly low price of goods**

1. A monopolistically high price is a price set by a market entity holding a dominant or monopolistic position, if this price exceeds the sum of the costs and profits necessary to produce and sell such goods and the price that was formed under competitive conditions in the relevant or comparable product market, including the price set by:

1) by increasing the previously set of goods, if the following conditions are met in aggregate:

the costs necessary for the production and sale of goods have remained unchanged or their change is disproportionate to the change in the price of the goods;

the membership of sellers or buyers of goods has remained unchanged or the change in the membership of sellers or buyers of goods is insignificant;

the conditions for the circulation of goods on the commodity market, including those due to state regulation measures, including taxation, customs and tariff, tariff and non-tariff regulation, remained unchanged or their change is disproportionate to the change in the price of the goods;

2) by not reducing the previously set price of goods, if the following conditions are met in aggregate:

the costs necessary for the production and sale of goods have decreased significantly;

the membership of sellers or buyers of goods determines the possibility of changing the price of the goods in the direction of decrease;

the conditions for the circulation of goods on the commodity market, including those due to state regulation measures of, including taxation, customs and tariff, tariff and non-tariff regulation, provide the possibility of changing the price of goods in the direction of decrease.

2. The commodity market shall be the sphere of circulation of goods (including foreign-made goods) that cannot be replaced by other goods, or interchangeable goods, within the boundaries of which (including geographical), based on economic, technical or other possibilities or expediency, the acquirer can purchase goods and outside of which there is no such possibility or expediency.

3. The comparable commodity market means another commodity market comparable in terms of the volume of goods sold, the composition of customers or sellers (suppliers) of goods, determined based on the purposes of purchasing or selling goods, and the conditions for access to the commodity market.

If it is impossible to compare the price in the same commodity market, the comparison is made with the price of the commodity in the comparable commodity market, including outside the Republic of Kazakhstan.

If it is impossible to determine the price prevailing in a competitive situation on a comparable commodity market, or a comparable commodity market, including outside the Republic of Kazakhstan, an analysis of costs and profits of the market entity shall be carried out and the reasonable price of the goods shall be determined.

4. The price of goods established by the market entity in accordance with the laws of the Republic of Kazakhstan shall not be recognized as monopoly high.

4-1. The price of exchange goods formed during duly conducted trading on commodity exchanges and electronic trading platforms shall not be recognized as monopoly high (low) in

the manner determined by competition authority, if such a price shall not be established by the result of monopolistic activities limited by this Code.

The price of exchange goods shall not be recognized as monopoly high in the manner determined by the competition authority, if it shall not exceed the price prevailing during the period under review during the duly conducted trading on commodity exchanges and electronic trading platforms.

The fact of establishing the monopoly high (low) price shall be revealed by investigating violations of the legislation of the Republic of Kazakhstan for protection of competition.

5. The monopoly low price of the goods is the price established by the market entity that occupies a dominant or monopolistic position if:

1) this price is lower than the price that on the same commodity market is established by a market entity that is not in the same group of persons with a dominant market entity;

2) this price is lower than the sum of actual costs for the production and sale of such goods.

6. The price of goods shall not be recognized as a monopoly low if it does not meet at least one of the criteria specified in paragraph 5 of this Article. The price of goods established by the market entity in accordance with the laws of the Republic of Kazakhstan shall not be recognized as monopoly low.

7. In determining the monopoly high price of the goods in accordance with Paragraph 1 of this Article, exchange and over-the-counter price indicators established in the world and Kazakhstan markets of similar goods shall be taken into account.

**Footnote. Article 175 as amended by the Law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 241-VI dated 02.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 268-VI dated October 28, 2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 101-VII of 03.01.2022 (shall be enforced sixty calendar days after the date of its first official publication).**

#### **Article 176. Monopsony position and monopsony low price**

1. The monopsony position is the position of a market entity that occupies a dominant or monopoly position as a customer, whose share in the relevant commodity market is seventy or more percent.

2. The monopsony low price is the price of goods at which the goods are acquired by a market entity which has a monopsony position if:

1) this price allows the market entity, which has a monopsony position, to receive additional income by reducing the costs of production and (or) sales at the expense of market entities that sell goods to it;

2) this price is lower than the amount required for the market entity that sells the goods, the costs of production and selling such goods and profits.

3. The price of goods shall not be recognized as a monopsony low if it does not meet at least one of the criteria specified in paragraph 5 of this Article.

#### **Article 176-1. Ensuring equal access to key capacity**

1. Key capacity is a commodity, infrastructure facility of a market entity holding a dominant or monopolistic position (hereinafter, the holder of key capacity), without access thereto other market entities cannot produce and (or) sell the commodity in the relevant or adjacent commodity market.

2. A product, infrastructure facility of a market participant shall be recognised as key capacity when the following conditions are met:

1) duplication of commodities, infrastructure facility is not possible or not economically feasible due to technological features;

2) the holder of the key capacity has the right to own, use and dispose of the relevant commodity, infrastructure facility

3) the ability of the key capacity holder to provide access to the relevant commodity, infrastructure facility;

4) an unjustified denial of access to the relevant commodity or infrastructure facility by a key capacity holder will have a negative impact on competition;

5) access to the relevant volume of goods, the infrastructure facility of the holder of the key capacity is not provided by means of exchange trading.

3. Holders of key capacity must provide equal access to key capacity to other market participants in a manner consistent with the rules for equal access to key capacity approved by the anti-monopoly authority, except in cases where a different procedure for access to relevant key capacity is regulated by the legislation of the Republic of Kazakhstan.

If the key capacity is raw material, the holders of the relevant key capacity must grant equal access thereto only to producers of commodities that use the said raw material.

Where the key capacity is a software product, access to it shall be provided in the manner prescribed by the laws of the Republic of Kazakhstan in the field of intellectual property.

4. Equal access to key capacity shall be granted under market conditions.

5. The requirements referred to in paragraph 3 hereof shall not apply to holders of key capacity in the amount used for their own needs and (or) by consumers belonging to the same group of persons without the purpose of further resale.

The first part of this paragraph shall not apply to quasi-public sector entities.

**Footnote. Chapter 15 as supplemented by Article 176-1 in pursuance of Law of the RK No. 101-VII of 03.01.2022 (shall enter into force sixty calendar days after the date of its first official publication).**

## Chapter 16. UNFAIR COMPETITION

### Article 177. Concept of unfair competition

1. Unfair competition shall mean any actions of a market entity (group of persons) or several market entities (group of persons) aimed at obtaining advantages in business activities, that contradict the legislation of the Republic of Kazakhstan, customs of business turnover, requirements of good faith, reasonableness and fairness and have caused or may cause damage to other market entities - competitors or have caused or may cause damage to their business reputation.

2. Unfair competition shall include, but not be limited to, the following acts:

1) undue use of means of individualization of goods, works, services, as well as objects of copyright;

2) undue use of goods from another producer;

3) copying of the product appearance;

4) discreditation of the market entity;

5) deliberately false, unfair and inaccurate advertising;

6) sale (purchase) of goods with a compulsory assortment;

7) call for a boycott of a seller (supplier) of competitor;

8) call for a discrimination of the customer (supplier);

9) call of the market entity to break the contract with a competitor;

10) bribing an employee of the seller (supplier);

11) bribing an employee of the customer;

12) undue use of information constituting a commercial secret;

13) the sale of goods with the provision of unreliable information to the consumer regarding the nature, method and place of production, consumer properties, quality and quantity of the goods and (or) its producers;

14) incorrect comparison by the market entity of goods produced and (or) sold by them with goods produced and (or) sold by other market entities;

15) creating barriers to changing the vendor (supplier) of goods.

**Footnote. Article 177 as amended by Law of the RK No. 101-VII of 03.01.2022 (shall become effective upon expiration of sixty calendar days after its first official publication).**

### Article 178. Undue use of means of individualization of goods, works, services, as well as objects of copyright

The undue use of means of individualization of goods, works, services, as well as objects of copyright is the undue use of another's trademark, service mark, company name, name of origin or similar designations for similar goods or use without the permission of the copyright holder or authorized person names of literary, artistic works, periodicals, or using them on



packaging in a form which may mislead the consumer in relation to the nature, method and place of production, consumer properties, quality and quantity of the goods or in relation to its producers.

**Footnote. Article 178 as amended by the Law of the Republic of Kazakhstan dated June 20, 2018 No. 161-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

#### **Article 179. Undue use of goods from another producer**

The undue use of goods of another producer is the introduction into economic circulation under its own designation of goods of another producer by changing or removing the producer's designations without the permission of the copyright holder or an authorized person.

#### **Article 180. Copying of the product appearance**

1. The copying of the product appearance is the reproduction of the product appearance of another market entity and its introduction into economic circulation, which may mislead the consumer in relation to the producer of the goods.

2. It is not undue to copy the product appearance or its parts, if such copying is solely due to their functional use.

#### **Article 181. Discreditation of the market entity**

The discreditation of a market entity is the dissemination in any form of deliberately false, inaccurate information related to the market entity activities.

#### **Article 182. Deliberately false, unfair and inaccurate advertising**

The features of unfair, inaccurate and deliberately false advertising shall be established in accordance with the laws of the Republic of Kazakhstan.

#### **Article 183. Sale (purchase) of goods with a compulsory assortment**

The sale (purchase) of the goods with a compulsory assortment is any actions of the seller (supplier) or customer to establish additional requirements or conditions for the sale (purchase) of the goods that undermine the rights of the seller (supplier), consumer and who, according to their content or traditional business practices, do not relate to the subject of the transaction.

#### **Article 184. Call for a boycott of a seller (supplier) of competitor;**

The call for a boycott of the seller (supplier) of the competitor or his goods is organized by a competitor directly or through an intermediary aimed at refusing customers to establish contractual relations with the seller (supplier) of a competitor or purchasing his goods.

#### **Article 185. Call for a discrimination of the customer (supplier)**

The call for discrimination of the customer (supplier) is the actions of the competitor of the customer (supplier) directly or through an intermediary, aimed at forcing the supplier (customer) to refuse to conclude a contract or apply discriminatory conditions to other customers (suppliers) under equivalent contracts.

#### **Article 186. Call for termination of the contract with a competitor**

The call to terminate the contract with a competitor is the actions of a market entity aimed at non-fulfillment or improper fulfillment of contractual obligations of another market entity - a party to the contract with a competitor, by providing or offering directly or through an intermediary material remuneration, other advantages or unreasonable resistance to the market entity in its implementation of its activities.

**Article 187. Bribing an employee seller (supplier)**

The bribing an employee of a seller (supplier) is provision of the customer's competitor, directly or through an intermediary, with property or non-property benefits for improper performance or non-performance by employee of the seller (supplier), which results or may result in getting by the customer's competitor of certain advantages over the customer and (or ) losses of the customer.

**Article 188. Bribing an employee of the customer**

The bribing an employee of the customer is providing the seller's (supplier) competitor, directly or through an intermediary, with property or non-property benefits for improper performance or non-performance by employee of the customer, which results or may result in getting by the seller's competitor of certain advantages over the seller (supplier) and (or) the seller (supplier) losses.

**Article 189. Undue use of information constituting a commercial secret**

The undue use of information constituting a trade secret is the use of information constituting a trade secret in accordance with the legislation of the Republic of Kazakhstan without permission of the copyright holder.

**Article 190. Sale of goods with the provision of unreliable information to the consumer regarding the nature, method and place of production, consumer properties, quality and quantity of the goods and (or) its producers**

The sale of goods with the provision of inaccurate information is the provision to the consumer in any form of inaccurate information regarding the nature, method and place of production, consumer properties, quality and quantity of goods and (or) its producers.

**Article 191. Inappropriate comparison by the market entity of goods produced and (or) sold by them with goods produced and (or) sold by other market entities**

The inappropriate comparison by the market entity of the goods produced and (or) sold by him with goods produced and (or) sold by other market entities are public statements, applications, affirmations in which any goods are compared with goods (are considered to be the goods) of other market entities, including the use of a superlative degree, in the absence of documentary evidence of the declared superiority of their goods over a competitor's goods ( attributing its goods to a competitor's goods).

**Article 191-1. Creating barriers to change of vendor (supplier) of goods**

Barriers to changing the vendor (supplier) of the goods shall be the imposition of contractual termination requirements not previously foreseen or exceeding the requirements at

the conclusion of the contract, as well as the failure to make publicly available the information necessary to ensure a free change of vendor (supplier) of the goods.

A competition authority shall determine the procedure for making publicly available the information necessary to ensure a free change of vendor (supplier) of goods.

**Footnote. Chapter 16 as supplemented by Article 191-1 in pursuance of Law of the RK No. 101-VII of 03.01.2022 ( shall be enacted upon expiry of sixty calendar days after its first official publication).**

## **Chapter 17. PARTICIPATION OF THE STATE IN ENTREPRENEURSHIP ACTIVITY**

### **Article 192. Grounds for state participation in entrepreneurial activities**

1. The state participates in entrepreneurial activity in the following cases:

- 1) there is no other possibility of ensuring national security, the defence capability of the state or protecting the interests of society;
- 2) using and maintaining strategic facilities that are in state ownership;
- 3) carrying out activities in the areas classified as state monopoly;
- 4) absence or low level of development of competition in the relevant product market;
- 5) carrying out activities by previously established state enterprises, legal entities, more than fifty percent of the shares (stakes in the authorized capital) of which belong to the state, and persons affiliated with them.

The list of activities carried out by state enterprises, legal entities, more than fifty percent of the shares (stakes in the authorized capital) of which belong to the state, and persons affiliated with them shall be approved by the Government of the Republic of Kazakhstan.

2. The state participation in entrepreneurial activities shall be carried out by:

- 1) the creation of state enterprises (state entrepreneurship);
- 2) the direct or indirect participation in the authorized capital of legal entities.

3. The legal entities, more than fifty percent of whose shares (stakes in the authorized capital) owned by the state, and affiliated persons do not have the right to create subsidiaries that carry out activities already represented on the commodity market by private business entities and legal entities, more than fifty percent of whose shares (stakes in the authorized capital) owned by the state and persons affiliated with them, with the exception of cases provided for in sub-paragraphs 1) and 2) of the first part of paragraph 1 of this Article.

4. Establishment of state enterprises, legal entities, with more than fifty percent of shares (stakes in the charter capital) owned by the State, and their affiliated entities, that will operate in the territory of the Republic of Kazakhstan, shall be carried out with the permission of the anti-monopoly authority.

The establishment of legal entities with over fifty per cent of shares (participating interests in the charter capital) owned by the State and their affiliates, classified as small business entities under the criteria established by this Code, as well as State participation therein, shall be prohibited.

The consent of the anti-monopoly authority shall be required when expanding and/or changing the activities performed by state enterprises, legal entities, with more than fifty percent of shares (participation shares in the authorised capital) owned by the state, and affiliated entities that will perform their activities in the territory of the Republic of Kazakhstan.

4-1. Draft legal acts contemplating the establishment, expansion and/or modification of the activities of state-owned enterprises, legal entities with more than fifty per cent of shares (participating interests in the charter capital) owned by the state, and entities affiliated therewith, shall be subject to mandatory approval by the anti-monopoly authority.

5. The creation of legal entities, more than twenty five percent of shares (stakes in the authorized capital) owned by the state, and persons affiliated with them, who will operate in the Republic of Kazakhstan, is carried out with the subsequent sale of shares (stakes in the authorized capital) of the state taking into account the payback period of the project.

6. In the case provided for by paragraph 4 of this Article, the body that makes the decision to establish a state enterprise, a legal entity, more than fifty percent of whose shares (stakes in the authorized capital) owned by the state, and persons affiliated with them who will operate on of the territory of the Republic of Kazakhstan, submits to the anti-monopoly body a petition for such a creation with the provision of substantiating materials in the form established by the anti-monopoly body.

Within sixty calendar days from the moment of receipt of the petition, the anti-monopoly body shall:

1) examine the commodity markets in which it is planned to create a state enterprise, a legal entity, more than fifty percent of whose shares (shares in the authorized capital) belong to the state, and an affiliated person who will operate in the Republic of Kazakhstan;

2) prepare an opinion on the level of competition development in these commodity markets, including the duration of the presence of the state enterprise, legal entity, more than fifty percent of whose shares (stakes in the authorized capital) belong to the state, and the person affiliated with it in this commodity market;

3) to send to the body that submitted the petition, a reasoned decision.

7. The anti-monopoly body refuses to issue consent for the creation of a state enterprise, a legal entity, more than fifty percent of whose shares (stakes in the authorized capital) belong to the state, and an affiliated person who will operate in the Republic of Kazakhstan, if such establishment leads to restriction of competition.

8. Creation, expansion and (or) change of activities of state-owned enterprises, legal entities, with more than fifty percent of shares (stakes in the charter capital) owned by the state, and their affiliated entities, operating in Kazakhstan without the consent of the antimonopoly body, shall be prohibited and shall entail liability as established by the laws of the Republic of Kazakhstan.

In the events specified in part one of this paragraph, the competition authority shall issue an order to rectify the infringement and its consequences.

9. The requirements of parts one and two of paragraph 4, paragraphs 5, 6, 7 and 8 of this Article shall apply only to the cases provided for in subparagraphs 4) and 5) of part one of paragraph 1 of this Article.

**Footnote.** Article 192 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 101-VII of 03.01.2022 (shall come into force sixty calendar days after the date of its first official publication).

### **Article 193. State monopoly and special right**

1. A state monopoly shall be the exclusive right of the state to produce, sell and (or) purchase any product on a competitive market, enacted in the order prescribed by this Code.

A special right shall refer to the exclusive or preferential right of a market participant, secured by law, to produce, sell and/or purchase a product in a competitive market.

2. The state shall be entitled to restrict competition in those spheres of business where the sale of goods in a competitive market may adversely affect the constitutional order, national security, protection of public order, human rights and freedoms and public health by establishing by law the exclusive right of the state to manufacture and/or sell, purchase or use goods or by granting a special right to market participants by law.

3. The state monopoly entity, excluding the State Corporation "Government for Citizens", the Social Health Insurance Fund and the State Technical Service, may only be a state enterprise established by a decision of the Government of the Republic of Kazakhstan.

The subject of a special right may be a state enterprise, a joint-stock company, a limited liability partnership, one hundred percent of the shares (participation shares in the authorized capital) of which directly or indirectly belong to the state, determined in accordance with the procedure established by the Government of the Republic of Kazakhstan.

The requirement specified in part two of this paragraph does not apply to a Single Operator of marking and traceability of goods and legal entities, more than fifty percent of voting shares of which are directly or indirectly owned by the state, that have placed shares on the primary securities market, as well as affiliated persons.

4. It is prohibited to grant market entities other exclusive or preferential rights to manufacture, sell and (or) purchase any goods on a competitive market in violation of the requirements of this article.

5. The anti-monopoly authority shall compile and keep a state register of state monopoly and special right entities.

6. State monopoly, special right entities shall be prohibited to:

- 1) produce goods that do not fall within the scope of a state monopoly, a special right, excluding activities associated technologically with the production of goods;
- 2) hold shares (participatory interests in the authorised capital) and otherwise participate in the activities of other legal entities;
- 3) assign rights associated with a state monopoly, a special right;
- 4) set prices for goods produced or sold that differ from the prices set by the public authority administering the relevant branch (area) of government, under the procedure laid down by the anti-monopoly authority.

The restrictions prescribed in sub-paragraphs 1) and 2) of part one of this paragraph shall not apply to the State Corporation "Government for Citizens", the Social Health Insurance Fund, the State Technical Service and the Single Operator for the Marking and Traceability of Goods.

In the event of natural disasters, epidemics, epizootics and restrictions preventing further continuation of the core activity, the Government of the Republic of Kazakhstan shall grant the state monopoly, special right entity the power to perform other activities, technologically close to the core one, for the period until the resumption of the core activity.

7. State monopoly, special right entities shall be public interest entities and shall have obligations in compliance with the accounting and financial reporting legislation of the Republic of Kazakhstan.

State monopoly, special right entities must maintain separate accounting of revenues, costs and assets involved for each type of activity, including technologically related activities.

8. State regulation of the activities of state monopoly, special right entities shall be exercised under the laws of the Republic of Kazakhstan.

9. The list of activities technologically related to the production of goods, works and services shall be approved by the public authority in charge of the respective branch (area) of public administration, in agreement with the anti-monopoly authority.

10. Control over compliance with the restrictions set out in paragraph 6 hereof by state monopoly entities, special rights shall be exercised by the anti-monopoly authority under this Code.

11. When a state monopoly, a special right is imposed, the following conditions shall be observed:

- 1) market participants must be notified of the decision at least six months prior to its enactment;

- 2) market participants who have been producing, selling or using the product within a period of six months after the introduction of the state monopoly, special right, shall be authorised to sell the product, except for transactions exceeding the aforementioned period;

- 3) market participants shall be compensated at the expense of budgetary funds for damage caused as a result of the introduction of a state monopoly, special right, under the civil legislation of the Republic of Kazakhstan.

12. Deprivation of the status of the special right entity shall be effected in case of two or more violations of the requirements hereof within one calendar year by this entity or abuse of its monopoly position on the commodity market under the procedure determined by the Government of the Republic of Kazakhstan.

13. The anti-monopoly authority shall annually analyse the activities of certain state monopoly or special right entities in compliance with the approved schedule and, no later than January 5 of the year following the reporting year, shall submit proposals to the Government of the Republic of Kazakhstan regarding the transfer of activities classified as state monopoly or special right into the competitive environment.

No monopolistic position and/or restriction of competition in the relevant product market shall be permitted in the transfer to a competitive environment.

14. The provisions of this article shall not apply to the activities of the unified accumulative pension fund, subsidiaries of the National Bank of the Republic of Kazakhstan that contribute to the implementation of the functions assigned to them and (or) are part of the financial market infrastructure, the authorized organization for ensuring the functioning of the Semipalatinsk nuclear safety zone, natural monopoly entities.

**Footnote. Article 193 - as reworded by Law of the Republic of Kazakhstan No. 101-VII of 03.01.2022 (shall take effect on 01.07.2022); as amended by the Law of the Republic of Kazakhstan dated 30.12.2022 No. 177-VII (shall be enforced ten calendar days after the date of its first official publication); dated 05.07.2023 No. 17-VIII (shall be enforced from January 1, 2024).**

## **Chapter 18. COMPETITION PROTECTION**

**Article 194. Anti-competitive actions (inaction), agreements between state and local executive bodies, organizations endowed with state functions of regulating the activities of market entities**

**Footnote. Heading of article 194 as amended by the Law of the Republic of Kazakhstan December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017).**

1. Anti-competitive actions (inaction) of state, local executive bodies, organisations assigned by the state with the functions of regulating the activities of market entities, in implementing their state functions or providing state support measures, expressed in actions (inaction), adoption of acts or decisions, that have led or may lead to limitation or elimination of competition, shall be prohibited and deemed void in whole or in part in the manner prescribed by the legislation of the Republic of Kazakhstan, excluding cases envisaged by the laws of Kazakhstan to protect the constitutional order, public order, human rights and freedoms, and the health and morals of the population.

2. The anti-competitive actions (inaction) of state and local executive bodies, organizations endowed with state functions of regulating the activities of market entities, including:

- 1) the introduction of restrictions on the creation of a market entity in any field of activity;
- 2) the unreasonable resistance to the activities of the market entity;
- 3) the establishment of prohibitions or imposing restrictions on the free movement of goods, other restrictions on the rights of a market entity to sell goods;
- 4) the instructions to the market entity about the priority supply of goods for a certain category of customers or the priority purchase of goods from certain sellers (suppliers) or the conclusion of contracts in priority order;
- 5) the establishment for consumers of goods restrictions on the choice of market entities that provide such goods;
- 6) the actions aimed at raising, reducing or maintaining prices;
- 7) the actions aimed at dividing the commodity market according to the territorial principle, the volume of sales or purchases of goods, the range of goods sold or the composition of sellers (suppliers) or customers;
- 8) the restriction of access to the commodity market, exit from the commodity market or elimination of market entities from it;
- 9) the provision to the certain market entities of benefits or other advantages that put them in a privileged position relative to competitors, or the creation of adverse or discriminatory conditions of activity compared to competitors;
- 10) the direct or indirect coercion of market entities to the priority conclusion of contracts, to the priority delivery of goods to a certain circle of consumers, or the priority purchase of goods from certain sellers (suppliers);
- 11) failure to provide market actors with equal access to public support measures for private enterprise.

3. The agreements between state, local executive bodies, local self-government bodies, organizations with state regulation functions of market entities, or between them and market entities are prohibited if such agreements lead or may lead to restriction or elimination of competition, except as provided for the laws of the Republic of Kazakhstan in order to protect the constitutional order, protect public order, human rights and freedoms, health and morals as well as international contracts ratified by the Republic of Kazakhstan.

3-1. The following shall be prohibited in the provision of public support measures for private enterprise:

- 1) limiting access to state support measures for new market actors;
- 2) imposing additional obligations on private enterprises that are not inherently related to the subject of state support;
- 3) levying fees and other charges not stipulated by the legislation of the Republic of Kazakhstan;
- 4) coordination of the activities of recipients of state support measures, if this action would or could lead to the prevention, restriction or elimination of competition.



3-2. The implementation of new measures of state support for private enterprise, the draft regulatory legal act determining the procedure for the provision of state support measures for private enterprise shall be subject to approval by the anti-monopoly authority, subject to the requirements of paragraph 3-1 hereof.

When the anti-monopoly authority approves the introduction of new measures of state support for private enterprise, a draft regulatory legal act defining the procedure for the provision of state support measures for private enterprise shall consider the following::

- 1) level of product market concentration;
- 2) existence of economic, technological, administrative barriers to market entry;
- 3) share of participation of small, medium-sized enterprises;
- 4) dynamics of the emergence of new market actors;
- 5) balancing the commodity market, meeting domestic demand;
- 6) level of state participation in the relevant product market;
- 7) achievement of the goals, target indicators, objectives and indicators for the development of competition in the goods market, as approved by the documents of the state planning system;
- 8) other documented circumstances that determine the priority of public support measures for private enterprise, given the state of competition in the commodity market.

3-3. The provisions of paragraphs 1, 2, 3-1 and 3-2 hereof shall not apply to the implementation of a set of anti-crisis measures to support the economy, stimulate business activity and employment, initiated by the instruction of the President of the Republic of Kazakhstan.

4. The draft conclusion on the investigation results of violations of the legislation of the Republic of Kazakhstan in the field of protection of competition in relation to the National Bank of the Republic of Kazakhstan shall be submitted or sent by letter notifying the object of investigation no later than thirty calendar days before the end of the investigation.

5. In case of disagreement with the arguments set forth in the draft conclusion on the investigation results of violations of the legislation of the Republic of Kazakhstan in the field of competition protection and the appeal of the National Bank of the Republic of Kazakhstan at least twenty calendar days before the completion of the investigation, the official (s) of the anti-monopoly body submit for consideration to the conciliation commission a draft conclusion on the investigation results of violations of the legislation of the Republic of Kazakhstan in the field of protection competition, which includes representatives of the National Bank of the Republic of Kazakhstan and the anti-monopoly body.

6. The conciliation commission shall consider the draft conclusion submitted within a period of not more than five calendar days from the date of submission on the subject of its completeness and quality of the evidence contained therein of the facts of violation of the legislation of the Republic of Kazakhstan in the field of competition protection with the invitation to the meeting of persons participating in the investigation.

7. Based on the results of consideration of the draft conclusion, the Conciliation Commission makes comments and recommendations on the presence (absence) of comments.

If the comments to the draft conclusion are accepted by the anti-monopoly body, it is finalized and no later than five calendar days shall be submitted again to the Conciliation Commission for consideration.

If the anti-monopoly body does not accept comments on the draft conclusion, the reasons for the disagreement to the Conciliation Commission shall be presented.

The decision of the anti-monopoly body on the approval of the conclusion shall be taken in the absence of comments from the Conciliation Commission on the draft conclusion and shall be issued by the order of the anti-monopoly body within ten calendar days from the day the investigation is completed.

8. The procedure for the action of the Conciliation Commission and its composition shall be determined by the anti-monopoly body in coordination with the National Bank of the Republic of Kazakhstan.

**Footnote. Article 194 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); No. 101-VII of 03.01.2022 (shall enter into force sixty calendar days after the date of its first official publication).**

### **Article 195. Prevention of violations of the legislation of the Republic of Kazakhstan in the field of competition protection**

In order to prevent violations of the legislation of the Republic of Kazakhstan in the field of competition protection, the anti-monopoly body conducts:

- 1) the analysis of the state of competition in commodity markets;
- 2) the regulation of economic concentration;

**Subparagraph 3) was valid until January 1, 2017 in accordance with the Code of the Republic of Kazakhstan dated October 29, 2015 No. 375-V.**

3) the monitoring of the activities of market entities that occupy a dominant or monopoly position;

- 4) monitoring of prices in goods markets.

**Footnote. Article 195 as amended by the Law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

#### **Article 195-1. Anti-monopoly compliance**

1. The anti-monopoly compliance is a system of measures to prevent violations of the legislation of the Republic of Kazakhstan in the field of competition protection.

2. In order to introduce anti-monopoly compliance, the market entity (s) has the right to adopt acts of anti-monopoly compliance:

1) an external act providing for the policies and rules of fair competition of the market entity (s) in the relevant commodity market;

2) an internal act providing for methods, means of risk assessment, procedures for organising work by a market entity (entities) to manage the risks of violations of the legislation of the Republic of Kazakhstan in the field of protection of competition, developed in compliance with the methodological recommendations approved by the antimonopoly authority.

3. Market entity (entities) shall have the right to send to the antimonopoly authority a draft external act of antimonopoly compliance to establish its compliance with the legislation of the Republic of Kazakhstan in the field of competition protection, which shall be subject to consideration within a month from the date of receipt of the draft external act of antimonopoly compliance.

4. The draft external act of antimonopoly compliance considered by the antimonopoly body in case of its compliance with the norms of the legislation of the Republic of Kazakhstan in the field of competition protection shall be an act of clarifying the legislation of the Republic of Kazakhstan in the field of competition protection in relation to a specific market entity (specific market entities) or in relation to a specific situation.

5. The methodological guidelines for the development and implementation of an internal act of antitrust compliance provide:

1) the stages of developing and implementing a domestic antitrust compliance act;

2) the content of the measures to develop and implement an internal act of anti-monopoly compliance;

3) method(s) for assessing anti-monopoly compliance risks related to the activities of a market participant;

4) establishing an internal control system for anti-monopoly compliance risks;

5) method(s) for assessing the efficiency of the operation of the internal act of anti-monopoly compliance;

6) other provisions for the development and implementation of an internal act of anti-monopoly compliance.

6. The existence of an effectively functioning internal act of anti-monopoly compliance on the part of a market participant shall be taken into account when examining cases of violations of the legislation of the Republic of Kazakhstan in the field of protection of competition.

**Footnote. The Code is supplemented by Article 195-1 in accordance with the Law of the Republic of Kazakhstan dated 28.12.2016 No. 34-VI (shall be enforced from 01.01.2017); as amended by Law of the Republic of Kazakhstan No. 268-VI dated 28.10.2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication); No. 101-VII of 03.01.2022 (shall be brought into force upon the expiry of sixty calendar days from the date of its first official publication).**

## **Article 196. Analysis of the state of competition in commodity markets**

1. The analysis of the state of competition in commodity markets shall be carried out in order to determine the level of competition, identify market entities occupying a dominant or monopoly position, develop a set of measures aimed at protection and development of competition, prevention, restriction and suppression of the monopolistic activities, including in the following cases:

- 1) regulation of economic concentration;
- 2) determination of the share of dominance of a market entity when considering features of anti-competitive agreements and concerted actions, abuse of a dominant or monopoly position;
- 3) establishment of the feasibility of the state presence in the business environment.

2. Analysis of the state of competition on commodity markets shall be conducted pursuant to the methodologies for the analysis of the state of competition approved by the competition authority:

- 1) in commodity markets;
- 2) in financial services markets - in coordination with the authorised body for the regulation, control and supervision of the financial market and financial organisations and the National Bank of the Republic of Kazakhstan.

3. The analysis of the state of competition in commodity markets includes the following steps:

- 1) the definition of criteria for the interchangeability of goods;
- 2) the determination of the boundaries of the commodity market;
- 3) the determination of the time interval for research of the commodity market;
- 4) the determination of the composition of market entities operating in the commodity market;
- 5) the calculation of the volume of the commodity market and the shares of the market entities;
- 6) the assessment of the state of the competitive environment in the commodity market;
- 7) the determination of the circumstances or features indicating the presence of obstacles, difficulties or other restrictions on the activities of market entities that affect the development of competition, including the definition of barriers to entry into the commodity market;
- 8) the conclusions on the results of the analysis of the state of competition in the commodity market, which are reflected in the conclusion.

4. The boundaries of the commodity market determine the territory in which consumers acquire a product or an interchangeable product, if its acquisition is impractical outside the territory for economic, technological and other reasons.

The goods in Articles 8, 90-6, 120, 160 - 231 of this Code are understood as the goods, work, service, which are the object of civil circulation.

The interchangeable goods are a group of goods that can be comparable in their functional purpose, application, quality and technical characteristics, price, and other parameters in such a way that the consumer replaces them with each other in the process of consumption (production).

5. The boundaries of the commodity market shall be determined based on the availability of the purchase of goods according to the following criteria:

- 1) the possibility of purchasing goods in a given territory;
- 2) the reasonableness and justification of transportation costs relative to the cost of goods;
- 3) the preservation of quality, reliability and other consumer properties of the goods during its transportation;
- 4) the absence of restrictions (prohibitions) of the sale, importation and exportation of goods;
- 5) the presence of equal conditions of competition in the territory, within which the sale, supply of goods is carried out.

**6. Is excluded by the Law of the Republic of Kazakhstan dated 28.12.2016 No. 34-VI (shall be enforced from 01.01.2017).**

7. The volume of the commodity market shall be defined as the sum of the sale of commodities or interchangeable goods within market borders in physical terms or value indicators, taking into account the volume of import and export of goods or interchangeable goods.

In the event that a market entity uses part of its products for its own needs, only the volume sold on the product market is included in the sales volume.

8. The share of the market entity in the relevant commodity market shall be defined as the ratio of the volume of sales by the market entity of the product or interchangeable goods within the geographical boundaries of the market to the total volume of the relevant commodity market.

9. The determination of the share of market entities is possible with the availability of information from the entities, the share of the delivery volume of which in the total supply volume is more than eighty-five percent.

10. The market entities, their associations and chiefs, state bodies, local executive bodies, including the authorized body in the field of state statistics, state revenue bodies, their officials, shall be obliged to provide reliable documents, written and oral explanations and other information at the request of the anti-monopoly body, including information constituting a commercial secret, necessary for the anti-monopoly body to exercise the powers provided for in this Code, within the period established by the anti-monopoly but it shall not be less than five working days.

11. When regulating economic concentration, as well as identifying features of anticompetitive agreements and concerted actions, abuse of the dominant or monopoly position in order to determine the share (s) of dominance of the market entity (s), the state of

competition in commodity markets shall be analyzed, not including the phases provided for in sub-paragraphs 6 ) and 7) paragraph 3 of this Article.

If the analysis of the state of competition in the commodity markets in identifying signs of abuse of a dominant or monopolistic position has shown that the market share of the market entity is more than thirty-five but less than fifty percent or there is cumulative dominance of market entities, the analysis of the state of competition in the commodity market shall be performed in observance of all the stages provided for in paragraph 3 hereof.

The analysis for the purpose of establishing the appropriateness of the state's presence in the business environment shall be accomplished based on the steps provided for in sub-paragraphs (1) and (2) of paragraph 3 hereof, in a manner to be determined by the anti-monopoly authority.

12. The analysis of the state of competition in commodity markets shall be carried out on the basis of information provided by the authorized body in the field of state statistics, government bodies, market entities and their associations, as well as information provided in accordance with paragraph 9 of this Article.

The market entity has the right to submit to the anti-monopoly body its marketing research results, which can also be used by the anti-monopoly body in the course of the analysis.

**Footnote. Article 196 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 262-VI dated 03.07.2019 (shall be enforced since 01.01.2020); No. 101-VII of 03.01.2022 (shall be enacted upon the expiry of sixty calendar days after its first official publication).**

**Article 197 was valid until 01.01.2017 in accordance with the Code of the Republic of Kazakhstan dated October 29, 2015 No. 375-V.**

### **Article 197. Monitoring of the activities of market entities that hold a dominant or monopoly position in regulated markets**

1. The objectives of monitoring of the activities of market entities that occupy a dominant or monopoly position in regulated markets are to identify and suppress the violations related to the abuse of a dominant or monopoly position, with the exception of violations provided by the legislation of the Republic of Kazakhstan on Natural Monopolies and Regulated Markets.

2. The market entities included in the state register of market entities that hold a dominant or monopoly position in regulated markets shall be obliged to submit to the anti-monopoly body:

1) the audited financial statements for market entities subject to obligatory annual audit in accordance with the legislation of the Republic of Kazakhstan on Auditing Activities for the year - up to August 31 of the following year;

2) the quarterly information on the sale or transfer to discretionary management of ten or more percent of its voting shares (stakes in the authorized capital, units) - up to the fifteenth date following the reporting;

3) the quarterly information on monopoly types of products on the volumes of production and sales, selling prices and the level of profitability of monopoly goods sold in a form determined by the anti-monopoly body - up to the fifteenth day following the reporting one.

#### **Article 198. Caution on the in-permissibility of violation of the legislation of the Republic of Kazakhstan in the field of protection of competition**

1. In order to prevent violation of the legislation of the Republic of Kazakhstan in the field of protection of competition, the anti-monopoly body sends a written warning to the official of the market entity, state body, local executive body about the in-permissibility of taking actions that may lead to violation of the legislation of the Republic of Kazakhstan in the field of competition protection.

2. The reason for sending a warning is a public statement by an official of a market entity, a state body, a local executive body about planned behavior in the commodity market, if such behavior may lead to violation of the legislation of the Republic of Kazakhstan in the field of protection of competition and there are no grounds for conducting an investigation.

3. The decision to issue a warning is made by the chief of the anti-monopoly body no later than ten working days from the day when the anti-monopoly body became aware of a public statement by an official of a market entity, a state body, a local executive body about planned behavior in the commodity market.

4. The warning shall contain:

1) the conclusions on the existence of grounds for warning;

2) the norms of the legislation of the Republic of Kazakhstan in the field of protection of competition that can be violated.

#### **Article 199 Notification of the presence in actions (inaction) of signs of violation of the legislation of the Republic of Kazakhstan in the field of competition protection**

**Footnote. The heading of Article 199 is in the wording of the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

1. If there are features of unfair competition, abuse of a dominant or monopoly position, with the exception of the features specified in sub-paragraph 1) of Article 174 of this Code, anticompetitive concerted actions of market entities, anti-competitive vertical agreements of the market entities indicated in paragraph 2 of Article 169 of this Code, and also features of anti-competitive actions (inaction), agreements of state and local executive bodies, organizations, endowed by the state with functions of regulating the activities of market entities, the anti-monopoly body sends to market entities, state and local executive bodies,

organizations endowed by the state with functions of regulation of market entities, notification on presence in actions (inaction) of features of violation of the legislation of the Republic of Kazakhstan in the field of protection of competitors without an investigation.

The notification shall be sent no later than ten working days from the day when the anti-monopoly authority became aware of the presence of these features.

The procedure for issuing a notification and its form shall be approved by the anti-monopoly authority.

2. The antimonopoly body shall make a decision on conducting an investigation if the organization endowed by the state with the function of regulating the activities of market entities, the state, local executive bodies, a market entity has not terminated the actions (inaction) specified in the notification within the time limits established by paragraph 2-1 of this Article.

2-1. The term for execution of the notification and submitting information on its execution shall be thirty calendar days from the date of its receipt by an organization endowed by the state with the function of regulating the activities of market entities, state, local executive bodies, a market entity.

If additional time costs are necessary, an organization endowed by the state with the function of regulating the activities of market entities, state, local executive bodies, a market entity may apply to the antimonopoly body with an application to extend the execution period of the notification no later than three working days before the expiration of the notification execution period.

The measures to be taken for execution of the notification, and the objective reasons for extending the deadline for execution of the notification shall be mandatorily embodied in the application of an organization endowed by the state with the function of regulating the activities of market entities, state, local executive bodies, a market entity.

The antimonopoly body shall make a decision to extend the period for execution of the notification or to refuse to extend it with a reasoned justification within three working days from the date of receipt of the application taking into account the arguments set forth in it.

The period for extending the execution of the notification shall not exceed thirty calendar days.

3. If, within one calendar year from the date of notification, the antimonopoly authority discovers signs of the same violation of the legislation of the Republic of Kazakhstan on protection of competition listed in paragraph 1 hereof in the actions (inaction) of the same entity charged by the state with regulating the activities of market participants, state or local executive body, a market participant, the competition authority shall order an investigation without notice.

**Footnote. Article 199 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first**



official publication); dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 101-VII of 03.01.2022 ( shall be put into force sixty calendar days after the date of its first official publication).

#### **Article 200. Economic concentration**

Footnote. Heading of article 200 as amended by the Law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication);

1. In order to prevent the emergence of a monopoly position and (or) restriction of competition, the prior consent of the anti-monopoly body is necessary for the market entities to carry out transactions (actions) specified in sub-paragraphs 1), 2) and 3) paragraph 1 of Article 201 of this Code, or to notify him of the transactions (actions) specified in sub-paragraphs 4) and 5) of paragraph 1 of Article 201 of this Code.

2. The market entities intending to make or committed economic concentration apply to the anti-monopoly body with a request to give consent to economic concentration or notify the anti-monopoly body of committed economic concentration in the manner provided for by this Code.

3. The market entities intending to make the economic concentration indicated in sub-paragraphs 4) and 5) of paragraph 1 of Article 201 of this Code are entitled to apply to the anti-monopoly body for prior consent in the manner provided for by this Code.

4. If economic concentration is conducted using competitive procedures (auctions, tenders , contests), the petition can be submitted both before the commencement of the tender procedure and after, but no later than thirty calendar days from the date of the winner's announcement, unless otherwise provided by Law of the Republic of Kazakhstan.

5. State registration, re-registration of market entities, rights to immovable property in cases provided by subparagraphs 1) and 3) of Paragraph 1 of Article 201 of this Code shall be carried out by the State Corporation "Government for Citizens" with the consent of the competition authority.

6. The economic concentration committed without the consent of the anti-monopoly body, which led to the establishment of a monopoly position of the market entity or a group of persons and (or) restriction of competition, can be declared invalid by the court on the suit of the anti-monopoly body.

The state registration, re-registration of a market entity, rights to real estate, carried out in violation of this Article, may be declared illegal in a judicial proceedings and canceled at the suit of the anti-monopoly body.

Footnote. Article 200 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No.241-VI dated 02.04.2019 (shall be enforced from 01.07.2019).

#### **Article 201. Regulation of economic concentration**

Footnote. Heading of article 201 as amended by the Law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication);

1. The economic concentration shall be recognized as:

1) the reorganization of the market entity by merger or accession;

2) the acquisition by a person (group of persons) of voting shares (stakes in the authorized capital, units) of a market entity in which such person (group of persons) is entitled to control more than fifty percent of the specified shares (stakes in the authorized capital, units), if prior to the acquisition, such a person (group of persons) did not control the shares (stakes in the authorized capital, units) of this market entity or controlled fifty percent or less of the voting shares (stakes in the authorized capital, units) specified with the market entity.

This requirement does not apply to the founders of a legal entity when it is created;

3) the obtainment in ownership, possession and use, including through payment (transfer) of the authorized capital, by a market entity (group of persons) of fixed production assets and (or) intangible assets of another market entity, if the balance sheet value of the property constituting the subject of transaction (interrelated transactions), exceeds ten percent of the balance sheet value of fixed production assets and intangible assets of a market entity that alienates or transfers the property;

4) the acquisition of rights by a market entity (including on the basis of a confidential management contract, joint operation agreement, commission contract), which make it possible to give binding instructions to another market entity when conducting its entrepreneurial activity or to perform the functions of its executive body;

5) the participation of the same individuals in the executive bodies, boards of directors, supervisory boards or other management bodies of two or more market entities, provided that these individuals determine the conditions for conducting their entrepreneurial activities in these entities.

2. The economic concentration shall not be recognized as:

1) the acquisition of shares (stakes in the authorized capital, units) of a market entity by financial organizations, if this acquisition is made for the purpose of their subsequent resale, provided that the specified organization does not participate in voting in the governing bodies of the market entity, as well as the acquisition or obtainment in ownership by financial organizations of property, fixed production assets and (or) intangible assets of another market entity in order to terminate the debtor's obligation in whole or in part, if this acquisition or obtainment is carried out for the purpose of their subsequent resale, provided that financial institutions do not use (do not operate) such property in order to extract income for their own purposes;

2) the appointment of a rehabilitation or bankruptcy administrator, temporary administration (temporary administrator);

3) the implementation of transactions specified in paragraph 1 of this Article, if such a transaction occurs within one group of persons.

3. The consent of the anti-monopoly body to carry out the transactions (actions) indicated in sub-paragraphs 1), 2) and 3) of paragraph 1 of this Article, or its notification about the transactions indicated in sub-paragraphs 4) and 5) of paragraph 1 of this Article, is required in cases if the cumulative book value of the assets of the reorganized market entities (groups of persons) or the acquirer (groups of persons), as well as the market entities, shares (stakes in the authorized capital, units) with voting rights are acquired, or their total sales of goods for the last financial year exceeded the ten million of MCI mounted on the filing date of the petition (notice).

4. The consent of the anti-monopoly body to the transactions specified in paragraph 1 of this Article is not required when the transactions are expressly provided for by this Code, the laws of the Republic of Kazakhstan, decrees of the President of the Republic of Kazakhstan and (or) resolutions of the Government of the Republic of Kazakhstan.

5. Consent to economic concentration with the participation of a financial organization shall be required if the value of assets or the amount of equity capital of a financial organization exceeds the amounts established by the antimonopoly body jointly with the authorized body for regulation, control and supervision of financial market and financial organizations.

If the economic concentration specified in paragraph 1 of this Article is carried out by a market entity that is both a financial organization and a market entity that occupies a dominant or monopoly position in the relevant commodity market, such a market entity is guided by the norm provided for by paragraph 3 of this Article.

6. Based on the analysis of the relevant commodity markets, the anti-monopoly body has the right to establish higher amounts of asset values and sales volumes for these markets, which require the anti-monopoly body to enter into transactions specified in this Article.

7. The total sales of goods in accordance with paragraph 3 of this Article is defined as the sum of income from the sale of goods for the last fiscal year preceding the filing of the petition (notification), minus the amount of value added tax and excise.

If the market entity has been operating for less than one year, the volume of sales of goods shall be determined for the period of the market entity's activity.

8. In the case of transactions provided for in sub-paragraphs 1), 2) and 3) of paragraph 1 of this Article, the prior consent of the anti-monopoly body is required.

In the case of transactions provided for in sub-paragraphs 4) and 5) of paragraph 1 of this Article, the anti-monopoly body shall be notified no later than forty-five calendar days after the date of the transaction.

**Footnote. Article 201 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); dated May 24,**

2018No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 262-VI dated 03.07.2019 (shall be enforced since 01.01.2020).

#### **Article 202. Persons submitting an application for consent to economic concentration**

1. In the cases provided for by sub-paragraph 1) of paragraph 1 of Article 201 of this Code, the petition is filed with the anti-monopoly body by the person making the relevant decision or the founders (participants) of the market entity.

2. The petition on a consent to the economic concentration specified in sub-paragraphs 2) and 3) of paragraph 1 of Article 201 of this Code shall be submitted to the anti-monopoly body by the person acquiring voting shares (stakes in the authorized capital, units), fixed production assets, intangible assets or related rights.

3. If several persons act as party to the transactions specified in sub-paragraphs 1), 2) and 3) of paragraph 1 of Article 201 of this Code, the petition may be filed by one person on behalf of the other participants in the transaction. The petition shall indicate the person authorized to represent in the anti-monopoly body the interests of the persons who have decided to commit economic concentration.

#### **Article 203. Procedure for petition filing**

1. The petition shall be drawn up in the form established by the antimonopoly body, with the documents and information provided for in Article 204 of this Code attached.

2. The information indicated in the petition and the documents attached to the application shall be reliable and complete, presented in the form of originals or copies of originals certified in the manner prescribed by the legislation of the Republic of Kazakhstan. The person who signed the petition shall confirm in writing the accuracy and completeness of the information and documents presented in the petition and its annexes.

3. The petition and annexes to it, submitted by an individual, shall be certified by a notarized signature of an individual.

4. The submitted documents and information shall be numbered and submitted indicating the numbers of the paragraphs and sub-paragraphs of Article 204 of this Code. There is an exhaustive answer for each question of the paragraph and subparagraph.

If it is not possible to provide full information to the economic concentration participant, the estimated or forecast information is provided, indicating that it is estimated or forecasted, as well as the sources of its receipt and the used methods of estimation and forecast.

5. The information constituting a commercial secret shall be submitted with the obligatory mark “commercial secret”.

6. The information and documents for the petition shall be submitted for the financial year preceding the year of submission of the petition, as well as for the current period from the beginning of the year, indicating the time period.

In the absence of information and documents compiled for the current period from the beginning of the year, information and documents shall be submitted for the financial year preceding the year of application filing.

In the event that a market entity existed for a period shorter than the last fiscal year preceding the filing of the petition, the information and documents shall be submitted during the time from the beginning of the activity of the market entity.

7. The information on the volumes of production, sales of goods in the Republic of Kazakhstan, the volumes of export and import of goods of a market entity (group of persons) are submitted for two financial years preceding the year of application, for the current period from the beginning of the year, and a three-year forecast is presented, following the current period.

In the event that a market entity has been in business for less than two years at the time of filing the petition, the information and documents shall be submitted during the time from the beginning of the market entity's activities.

8. The third parties shall be entitled to participate in the consideration of a petition on a consent to an economic concentration, if the decision of the anti-monopoly body can substantially affect their rights protected by this Code.

The issue of engaging in the consideration of a petition on a consent to an economic concentration of third parties shall be decided by the anti-monopoly body, and the person who filed the petition shall be notified.

**Footnote. Article 203 as amended by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

**Article 204. Documentation attached to the petition on a consent to economic concentration**

1. The documentation required for submitting to the anti-monopoly body a petition on a consent to the economic concentration provided for in sub-paragraph 1) of paragraph 1 of Article 201 of this Code includes:

**1) is excluded by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );**

2) the justification of the purpose of reorganization of the market entity, including the planned amendments in the kinds of activities or geography of their business operations;

3) the approved charter and Founding Agreement of the created market entity or their projects;

4) the list of information and conditions for the transfer of property transferred to the created market entity;

5) for each of the reorganized market entities, as well as for each market entity entering with the reorganized market entities into one group of persons, the following shall be indicated:

for an individual - the data of the document certifying his identity, information on citizenship, as well as the place of residence and legal address;

name, legal and actual address;

the size of the charter capital and the stake in the charter capital;

types of shares;

6) the list of members of the executive body, the board of directors (supervisory board) indicating the position, which are also members of the executive body, the board of directors (supervisory board) of other market entities;

7) the volume of production and sale of goods, exports and imports of goods in the Republic of Kazakhstan, produced and sold by reorganized market entities;

8) the volume of production and sale, export and import in the Republic of Kazakhstan of the same or interchangeable goods produced or sold by market entities belonging to the same group of persons with reorganized market entities;

9) is excluded by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

2. The list of documents and information necessary for filing a petition with the anti-monopoly body for consent to the economic concentration provided for in sub-paragraph 2) of paragraph 1 of Article 201 of this Code:

1) the contract or draft of the contract or other document confirming the transaction;

2) for the acquirer and for each market entity entering with the acquirer in one group of persons, the following shall be indicated:

for an individual - the data of the document certifying his identity, information on citizenship, as well as the place of residence and legal address;

name, legal and actual address;

the size of the charter capital and the stake in the charter capital;

types of shares;

the volume of production and sales, exports and imports to the Republic of Kazakhstan of goods similar to goods or interchangeable goods produced or sold by a market entity in respect of which the actions are performed, as provided for in sub-paragraph 2) of paragraph 1 of Article 201 of this Code;

3) the list of members of the executive body, board of directors (supervisory board) indicating the position, which are also members of the executive body, board of directors (supervisory board) of other market entities;

4) the volume of production and sale, export and import of goods in the Republic of Kazakhstan of the market entity in relation to which the actions are performed, as provided for in sub-paragraph 2) of paragraph 1 of Article 201 of this Code;

5) the volume of production and sale, export and import in the Republic of Kazakhstan of the same or interchangeable goods produced or sold by market entities under the direct or indirect control of the market entity in relation to which the actions provided for in sub-paragraph 2) of paragraph 1 of Article 201 of this Code are performed.

6) is excluded by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

7) is excluded by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

3. The list of documents required for filing a petition with the anti-monopoly body on a consent to the economic concentration provided for in sub-paragraph 3) of paragraph 1 of Article 201 of this Code:

1) a contract or draft of the contract;

2) for the acquirer and for each market entity entering with the acquirer in one group of persons, the following shall be indicated:

for an individual - the data of the document certifying his identity, information on citizenship, as well as the place of residence and legal address;

name, legal and actual address;

the size of the charter capital and the stake in the charter capital;

types of shares;

the volume of production and sales, exports and imports in the Republic of Kazakhstan of the same or interchangeable goods that will be produced using the purchased property;

3) the list of the property constituting the subject of the transaction, with an indication of the balance sheet value;

4) the information on the release of which goods the resulting property was and will be used, indicating the types of goods;

5) the forecast of production and sale of goods using the resulting property, indicating the types of goods;

6) is excluded by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

4. The foreign legal entity, in addition to the information provided in accordance with this Article, additionally provides:

1) a notarized extract from the trade register of the country of origin or other equivalent document confirming its legal status, in accordance with the laws of the country of its location;

2) is excluded by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

3) information with the list of types of goods produced and (or) sold in the Republic of Kazakhstan by a branch or representative office, if a foreign legal entity or market entity with

foreign participation - the acquirer has a branch or representative office in the Republic of Kazakhstan.

5. In the case provided for in paragraph 3 of Article 200 of this Code, a petition on a consent to economic concentration is filed by the person acquiring the relevant rights, with the submission of a list of documents and information provided for in Article 207 of this Code

6. Is excluded by the Law of the Republic of Kazakhstan dated 28.12.2016 No. 34-VI (shall be enforced from 01.01.2017).

Footnote. Article 204 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication);

#### **Article 205. Terms of consideration of the petition on a consent to the economic concentration**

1. The anti-monopoly body shall, within ten calendar days from the date of receipt of the petition, verify the completeness of the submitted materials and notify the person who filed the petition in writing about accepting or refusing to accept the petition for consideration.

2. The term for consideration of a petition on a consent to the economic concentration shall not exceed thirty calendar days from the moment of acceptance of the petition for consideration.

3. The term for consideration of the petition is suspended if it is impossible to consider the petition before the decision is taken by the anti-monopoly body or the court on the specified or related other petition, which the anti-monopoly body is obliged to notify in writing the person who submitted the petition within three working days.

4. During the consideration of the petition, the anti-monopoly body has the right to request, within a term that shall not be less than five working days, from the market entity and / or the state body request additional information and / or documents necessary for making the decision.

5. For the period of submitting additional information and (or) documents, as well as when analyzing the state of competition in commodity markets, the time for consideration of the application is suspended, the anti-monopoly body shall be obliged to notify the person who submitted the decision within three working days from the time such a decision is made, he is obliged to notify in writing the person who submitted the petition.

The analysis of the state of competition in commodity markets when making economic concentration shall be required if the persons participating in the transaction (group of persons) carry out activities to sell similar or interchangeable goods and (or) features of restriction of competition.

6. The anti-monopoly body resumes consideration of the petition on a consent to economic concentration after the submission of additional information and (or) documents by



the market entity and (or) government bodies, which shall be notified in writing to the person who submitted the petition within three working days. From the day of resumption of consideration of the petition on a consent to an economic concentration, the period of consideration continues.

**Footnote. Article 205 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017).**

#### **Article 206. Procedure for notifying the anti-monopoly body of the committed economic concentration**

The market entities that have committed the transactions provided for in sub-paragraphs 4) and 5) of paragraph 1 of Article 201 of this Code shall notify the anti-monopoly body within the period established by the second part of paragraph 8 of Article 201 of this Code.

Notification of committed economic concentration may be submitted both directly to the antimonopoly body and through communication institutions.

The anti-monopoly body shall be notified by:

1) an individual who is a member of the executive bodies, boards of directors, supervisory boards or other governing bodies of two or more market entities, subject to the determination by the specified individual of the conditions for conducting their entrepreneurial activities;

2) a market entity acquiring rights (including on the basis of a confidential management contract, a joint operation agreement, commission contract), allowing to give binding instructions to another market entity when it conducts entrepreneurial activities or to perform the functions of its executive body.

**Footnote. Article 206 as amended by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

#### **Article 207. Documentation attached to the notification (petition) to the anti-monopoly body on the committed (planned) economic concentration**

1. The list of documents and information required for sending (filing) a notification (petition) to the anti-monopoly body on the committed (planned) economic concentration, as provided for in sub-paragraph 4) of paragraph 1 of Article 201 of this Code:

1) a copy of the contract (draft of the contract), certified by a legal entity, or another document confirming the commission (intention to commit) of the transactions(transaction);

2) for the acquirer and for each market entity entering with the acquirer in one group of persons, the following shall be indicated:

for an individual - the data of the document certifying his identity, information on citizenship, as well as the place of residence and legal address;

name, legal and actual address;

size of the charter capital and stake;

types of shares;

the volume of production and sales, exports and imports to the Republic of Kazakhstan of goods similar to goods or interchangeable goods produced or sold by a market entity in respect of which the actions are performed, as provided for in sub-paragraph 4) of paragraph 1 of Article 201 of this Code;

3) the list of members of the executive body, board of directors (supervisory board) indicating the position, which are also members of the executive body, board of directors (supervisory board) of other market entities;

4) the volume of production and sale, export and import of goods in the Republic of Kazakhstan of the market entity in relation to which the actions are performed, as provided for in sub-paragraph 4) of paragraph 1 of Article 201 of this Code;

5) the volume of production and sale, export and import in the Republic of Kazakhstan of the same or interchangeable goods produced or sold by market entities under the direct or indirect control of the market entity in relation to which the actions provided for in sub-paragraph 4) of paragraph 1 of Article 201 of this Code are performed.

6) is excluded by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication );

7) is excluded by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication ).

2. The list of documents and information required for sending (filing) a notification (petition) to the anti-monopoly body on the committed (planned) economic concentration, as provided for in sub-paragraph 5) of paragraph 1 of Article 201 of this Code:

1) information about the individual whose participation is expected in the executive bodies, boards of directors, supervisory boards and other management bodies of two or more market entities:

data of an identity document, information on citizenship, place of work, position held, allowing to determine the conditions for doing entrepreneurial activity in these entities with an indication of the powers;

the list of legal entities in which the person sending (giving) the notification (petition) determines the conditions for conducting entrepreneurial activity with an indication of the powers;

2) the name of the legal entity (group of persons) and the governing body to which the person sending (submitting) the notice (petition) is appointed or elected;

3) the name of the position in the market entities, in the executive bodies, boards of directors, supervisory boards and other governing bodies of which it is planned to include the person sending (submitting) the notification (petition);

4) a list of rights allowing the person sending (giving) the notification (petition) to determine the conditions for doing entrepreneurial activity in market entities, to executive

bodies, boards of directors, supervisory boards and other management bodies of which the person is expected to enter;

5) for each market entity and group of persons in which the person sending (giving) the notification (petition) determines the conditions for doing entrepreneurial activity, the following shall be indicated:

name of the market entity, legal and actual addresses;

volume of production, sales, exports and imports of goods in the Republic of Kazakhstan;

6) on the market entity in which participation of the person sending (giving) the notification (petition) is planned, as well as the group of persons to which the person belongs, shall indicate:

name of the market entity, legal and actual addresses;

volume of production, sale, export and import of the same or interchangeable goods in the Republic of Kazakhstan, produced and sold by the market entity and a group of persons in which the person sending (giving) the notification (petition) determines the conditions for doing entrepreneurial activity.

**Footnote. Article 207 as amended by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

#### **Article 208. Decision on a petition on a consent to economic concentration**

1. Based on the results of the consideration of the petition on a consent to the economic concentration, the anti-monopoly body takes one of the following decisions:

1) on a consent to economic concentration;

2) on the prohibition of economic concentration with a motivated conclusion.

2. The decision of the antimonopoly body on consent to economic concentration or prohibition of economic concentration shall be documented by an act of the antimonopoly body and, within three working days from the date of adoption of such a decision, shall be sent to the person who submits the application, and in relation to financial organizations and the authorized body for regulation, control and supervision of financial market and financial organizations.

3. The consent of the anti-monopoly body to the economic concentration may be due to the participants fulfilling the economic concentration of certain requirements and obligations that eliminate or mitigate the negative impact of economic concentration on competition.

Such conditions and obligations can relate to, including, but not limited, the restrictions on the management, use or disposal of property.

4. The economic concentration shall be carried out within a year from the date of the decision of the anti-monopoly body to grant a consent to economic concentration. If the economic concentration is not implemented within the prescribed period, the participants of the economic concentration shall submit a new petition for granting permission for economic concentration.

5. The anti-monopoly body, on its own initiative or a application of the interested person, reviews its decision on consent or prohibition of economic concentration in the following cases:

1) if, within three years after the adoption of the decision, the circumstances became known, on the basis of which the adoption of this decision should have been refused;

2) if the decision was made on the basis of inaccurate information provided by the person who filed the petition for economic concentration, which led to the adoption of an illegal decision;

3) the non-fulfillment by the participants of the economic concentration of the requirements and obligations that caused the decision of the anti-monopoly body.

6. Based on the results of the decision review, the anti-monopoly body:

1) leaves the decision without amendment;

2) amends the decision;

3) cancels the decision;

4) adopts a new decision.

7. If, based on the results of the revision of the decision, the anti-monopoly body decides to cancel consent to economic concentration, the state registration, re-registration of the market entity, real estate rights shall be recognized as illegal and canceled at the suit of the anti-monopoly body.

8. For consideration of additional information and documents that may change the previously adopted decision of the anti-monopoly body, the applicant shall submit a petition in the manner established by this Code.

9. The decision of the anti-monopoly body to revise a previously adopted decision on economic concentration is compiled by an act of the anti-monopoly body and within three working days from the moment such a decision is adopted, it is sent to the person concerned.

10. The economic concentration is prohibited if it leads to restriction of competition.

**Footnote. Article 208 as amended by Law of the Republic of Kazakhstan No. 262-VI dated 03.07.2019 (shall be enforced since 01.01.2020).**

**Article 209. Adoption of the decision by the anti-monopoly body on the notification of a committed economic concentration.**

1. If, after thirty calendar days after the notification of the committed economic concentration has been received by the anti-monopoly body, the anti-monopoly body is not notified of the need to cancel the transaction to the person who sent the notification, the economic concentration shall be considered implemented.

2. In the event that the anti-monopoly body, when considering a notification of committed economic concentration, determines that its conduct has or may lead to restriction or elimination of competition, including by creating or strengthening the dominant position of the market entity, the anti-monopoly body issues an order to cancel transaction that is subject to execution within thirty calendar days.

3. In case of non-fulfillment of the improvement notice on the need for canceling the transaction, the anti-monopoly body will file a claim with court to compel the market entity to fulfill this improvement notice of the anti-monopoly body.

**Footnote. Article 209 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017).**

### **Article 210. Grounds for discontinuing consideration of a petition on a consent to economic concentration**

1. The consideration of a petition on a consent to economic concentration shall be discontinued in the following cases:

- 1) the receipts from applicants of the notifications on withdrawal of the petition;
- 2) the applicant's failure to provide information within a period specified by the anti-monopoly body, if the absence of such information prevents the consideration of the petition;
- 3) the provision by the applicant of unreliable information affecting the objective consideration of the petition.

2. The decision of the anti-monopoly body on the discontinuation of consideration of the petition shall be compiled by an act of the anti-monopoly body and shall be sent to the person who filed the petition within three working days from the moment such a decision is adopted.

3. After the discontinuation of consideration of the petition, the applicant shall be entitled to apply to the anti-monopoly body with a new application on consent to economic concentration.

### **Article 210-1. Authorised person**

1. To conduct an expert evaluation of the fulfilment of the requirements and obligations stipulated in the decision of the competition authority on consent to economic concentration, a market participant shall have the power to engage a trusted person determined in accordance with the requirements laid down herein.

2. An authorised person shall be a person who has special scientific or practical knowledge of the matters that are the subject of an economic concentration.

3. An agreement shall be concluded between the authorised person and the market participant in the standard form approved by the competition authority.

The authorised person shall report to the competition authority on the conclusion of the contract no later than ten calendar days after the date of entry into force of the contract.

4. The authorised person must be independent in relation to the parties to the economic concentration.

A person may not be engaged as an authorised person:

- 1) which is a participant in an economic concentration or is a member of the same group of persons as the participant in the economic concentration;

2) is a competitor of a participant in an economic concentration and (or) is a member of the same group of persons as that person or is a member of the same group of persons as a competitor of a participant in an economic concentration.

5. The authorised person shall provide an expert assessment of the market participant's compliance with economic, behavioural, organisational, structural and other requirements and obligations, including those relating to:

- 1) the division of a market entity or the spinning off of a legal person;
- 2) sale, transfer by a market participant of property, property and other rights to third parties;
- 3) separation of the management functions of market entities within a group of persons or structural subdivisions of a market entity to avoid conflicts of interest;
- 4) production and/or sale of goods, direction of investments, fulfilment of social, economic and other conditions of conduct on the commodity market;
- 5) ensuring non-discriminatory access to the goods of a market participant;
- 6) taking measures to prevent breaches of the legislation of the Republic of Kazakhstan on the protection of competition.

6. The authorised person shall submit to the competition authority an expert opinion on the market participant's compliance with the requirements and obligations stipulated in the decision of the competition authority on consent to economic concentration.

7. The authorised person shall be entitled to access electronic and paper documents, automated databases (information systems), electronic and other data carriers of the relevant market entity that are necessary for the authorised person to perform its functions, including information constituting confidential information and (or) trade secrets, provided that a written commitment on non-disclosure of information constituting legally protected secrets is provided.

8. The authorised person shall have the right to refuse to submit an expert opinion on matters beyond his/her special knowledge or if the materials and information submitted to him/her are insufficient for the submission of the expert opinion.

9. For the submission of a knowingly false expert opinion, an authorised person shall be liable as prescribed by the laws of the Republic of Kazakhstan.

10. The competition authority shall keep a register of authorised persons under a procedure determined by the competition authority.

Candidates proposed by business associations shall be included in the register of authorised persons.

11. The services of the authorised person shall be at the expense of the market participant, in compliance with the contract.

**Footnote. Chapter 18 as supplemented by Article 210-1 under Law of the RK No. 101-VII of 03.01.2022 (shall be effective upon expiry of sixty calendar days after the date of its first official publication).**

**Article 211. Procedure for notifying the anti-monopoly body of the implementation by a natural monopoly entity of activities not related to regulated services (goods, works)**

Footnote. Article 211 is excluded by the Law of the Republic of Kazakhstan No. 243-VI dated 03.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication).

**Chapter 19. INTERACTION OF THE ANTI-MONOPOLY BODY WITH THE LAW ENFORCEMENT BODIES OF THE REPUBLIC OF KAZAKHSTAN AND THE ANTI-MONOPOLY BODIES OF OTHER STATES**

Footnote. Chapter 19 is excluded by the Law of the Republic of Kazakhstan dated 28.12.2016 No. 34-VI (shall be enforced from 01.01.2017).

**Chapter 20. IDENTIFICATION OF VIOLATIONS OF LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN IN THE FIELD OF COMPETITION PROTECTION**

**Article 216. Grounds for initiating an investigation of violation of the legislation of the Republic of Kazakhstan in the field of competition protection**

1. The anti-monopoly body, within its authority, investigates violations of the legislation of the Republic of Kazakhstan in the field of competition protection and takes a decision based on the investigation results.

The investigation refers to measures taken by the anti-monopoly body aimed at collecting the facts that confirms or refutes the violation of the legislation of the Republic of Kazakhstan in the field of competition protection, in the manner provided for by this Code.

2. The basis for initiating an investigation is the receipt by the anti-monopoly body of information about a violation of the legislation of the Republic of Kazakhstan in the field of competition protection, which are:

1) materials received from state authorities indicating a breach of the legislation of the Republic of Kazakhstan in the field of protection of competition or indications thereof;

2) the appeal of an individual and (or) legal entity, indicating features of violation of the legislation of the Republic of Kazakhstan in the field of competition protection;

3) the detection by the anti-monopoly body in the course of its activities in the actions of the market entity, government bodies, local executive bodies of features of violation of the legislation of the Republic of Kazakhstan in the field of competition protection;

4) the media reports on the presence of features of violations of the legislation of the Republic of Kazakhstan in the field of competition protection, received by the anti-monopoly body;

5) failure by a market entity, state body, local executive body, organization endowed by the state with the functions of regulating the activities of market entities, notifying the antimonopoly body about the presence in the actions (inaction) of the market entity, state, local executive bodies, an organization endowed with the state with the functions of

regulating the activities of the market entities, signs of violation of the legislation of the Republic of Kazakhstan in the field of competition protection within the prescribed period.

3. The start of an investigation is documented by an investigation order.

4. The copy of the investigation order, no later than three working days from the date of its signing, shall be sent to the applicant and the investigation object, with the exception of the investigation objects, the actions of which contain features of a cartel.

The copy of the investigation order is handed over to the investigation objects, in the actions of which there are features of a cartel at the time of the investigation.

**Footnote. Article 216 as amended by Laws of the Republic of Kazakhstan No. 268 VI- of 28.10.2019 (shall come into effect ten calendar days after its first official publication); No. 101-VII of 03.01.2022 (shall be put into force sixty calendar days after the date of its first official publication).**

### **Article 217. Persons involved in the investigation of violations of the legislation of the Republic of Kazakhstan in the field of competition protection**

1. The persons participating in the investigation of violations of the legislation of the Republic of Kazakhstan in the field of competition protection are:

1) an applicant - an individual or legal entity who has sent information to the anti-monopoly body on violation of the legislation of the Republic of Kazakhstan in the field of competition protection;

2) an object of investigation is an individual, a legal entity or its branch, which is an independent taxpayer (with the exception of financial organizations), in respect of whose actions the investigation is being conducted. These persons shall be recognized as the object of investigation from the moment the order for conducting an investigation is issued;

3) interested persons - the individuals or legal entities whose rights and legal interests are affected in connection with the consideration of a case on violation of the legislation of the Republic of Kazakhstan in the field of competition protection;

4) an official of the anti-monopoly body - an employee of the anti-monopoly body authorized to conduct an investigation;

5) a witness - any individual who may be aware of any circumstances relevant to the investigation;

6) an expert - an uninterested individual with special scientific or practical knowledge.

2. When conducting an investigation, the persons participating in the case shall be entitled to exercise their rights and obligations independently or through a representative.

3. If during the investigation it is established that the features of violation of the legislation of the Republic of Kazakhstan in the field of competition protection are contained in the action (inaction) not of the investigation object, but of another person, the anti-monopoly body engages such person as the investigation object in the manner provided for by Article 216 of this Code.



Footnote. Article 217 as amended by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

### **Article 218. Investigation**

1. In the case of the availability of facts indicating the presence in the actions of a market entity, a state body, a local executive body, an organization endowed with state functions of regulating the activities of market entities, features of violations of the legislation of the Republic of Kazakhstan in the field of competition protection, established as part of the consideration of information provided for paragraph 2 of Article 216 of this Code, the anti-monopoly body shall issue an investigation order.

2. The anti-monopoly body in the presence of features provided for:

1) by paragraph 3 of Article 169, paragraph 1 of Article 170 of this Code, prior to the investigation, analyzes the state of competition in commodity markets in order to determine the share of dominance of the market entity;

2) in Article 174 of this Code, prior to the investigation, analyzes the state of competition in commodity markets in order to identify the dominant or monopoly position of the market entity.

At the same time, the anti-monopoly response measures shall be applied to this market entity over the period of its actual dominance.

3. The investigation order shall contain:

1) the name of the object or objects of investigation;

1) the grounds for an investigation of violations of the legislation of the Republic of Kazakhstan in the field of competition protection;

3) the features of violation of the legislation of the Republic of Kazakhstan in the field of competition protection, which are found in the actions (inaction) of the investigation object;

4) the date of commencement and completion of the investigation;

4-1) scope of investigation;

4-2) the checked period;

5) the full name (if it is indicated in the identity document) of the official of the anti-monopoly body authorized to conduct the investigation;

6) the rights of persons involved in the investigation of violations of the legislation of the Republic of Kazakhstan in the field of competition protection.

4. The investigation of violations of the legislation of the Republic of Kazakhstan in the field of competition protection shall be carried out in a term not exceeding three months from the date of issuing an order to conduct an investigation of violations of the legislation of the Republic of Kazakhstan in the field of competition protection. The term of the investigation can be extended by the anti-monopoly body, but not more than two months. The order shall be issued on the extension of time, the copies of the order shall be sent to the applicant and the investigation object within three working days from the date of its publication.

5. Prior to the commencement of an investigation, the competition authority shall register with the authority responsible for legal statistics and special registers the order to conduct the investigation by submitting it to the territorial unit of the authority responsible for legal statistics and special registers, including in electronic form.

6. The anti-monopoly body during an investigation may decide to merge several investigations into one or to separate and conduct a separate investigation.

7. The time limit for a joint investigation shall be calculated from the date of the first investigation.

**Footnote. Article 218 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 268-VI dated October 28, 2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication); No. 101-VII of 03.01.2022 ( shall come into force sixty calendar days after the date of its first official publication).**

### **Article 219. The evidence in the investigation of violation of the legislation of the Republic of Kazakhstan in the field of competition protection**

1. The evidence of violations of the legislation of the Republic of Kazakhstan in the field of competition protection can be any facts relevant to the proper conduct of an investigation, including:

- 1) the explanations of the applicant, the object of investigation, interested persons and witnesses;
- 2) the expert opinions;
- 3) the material evidence;
- 4) other documents (including materials containing computer information, photographs and filming, sound, audio and video recordings).

2. The collection of evidence shall be carried out by an official of the anti-monopoly body

3. The persons participating in the investigation of violations of the legislation of the Republic of Kazakhstan in the field of competition protection shall be entitled to submit facts and prove their authenticity.

### **Article 220. Rights of persons involved in the investigation of violations of the legislation of the Republic of Kazakhstan in the field of competition protection**

The persons involved in the investigation of violations of the legislation of the Republic of Kazakhstan in the field of competition protection shall be entitled to:

- 1) familiarise with case materials, make extracts from them and make copies, except for materials containing confidential information and (or) commercial secrets of other market entities;
- 2) present evidence and participate in their research;
- 3) ask questions to other persons involved in the case;

4) file petitions for the involvement of experts;  
5) give explanations in writing or oral form, to bring their arguments on all issues arising during the investigation;

6) familiarise with the petitions of other persons participating in the investigation, to object to the petitions, arguments of other persons participating in the investigation.

The object of investigation shall have the right to apply to the antimonopoly body for submission to the conciliation commission of a draft conclusion based on the results of the investigation of violations of the legislation of the Republic of Kazakhstan in the field of competition protection.

**Footnote. Article 220 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

#### **Article 221. Rights of officials of the competition authority in conducting an investigation**

**Footnote. Title as amended by Law of the RK No. 101-VII of 03.01.2022 (shall be enacted upon expiration of sixty calendar days after the date of its first official publication).**

The officials of the anti-monopoly body shall be entitled to:

1) unimpeded access to the territory and premises of the investigation object;  
2) access to automated databases (information systems) and other electronic media of the investigation object in accordance with the subject of the investigation;

3) request, within the time set by the anti-monopoly body, from the employees of the investigation object the necessary information, documents or copies thereof relating to the subject of the investigation, explanations in oral and written form on issues arising during the investigation;

4) the involvement of specialists from other state bodies of the Republic of Kazakhstan and other persons during the investigation as experts

5) the inspection of objects, electronic and paper documents and other information carriers located in the premises and on the territory of the investigation object, in accordance with the subject of the investigation;

6) make copies of documents, information from the database (information systems) and other electronic media of the investigation object in accordance with the subject of the investigation;

7) audio, photo and video recording:  
actions (inaction) of the employees of the investigation object and other persons in the territory of the investigation object;

premises and territories of the investigation object;

property located in the premises or on the territory of the investigation object;

8) sample products for examination.

The procedure for sampling of products for examination shall be determined in accordance with Article 149 of this Code.

All rights of officials of the anti-monopoly body, provided for in this article, shall be exercised from 9.00 am to 18.00 pm local time and in accordance with the subject of the investigation.

If it is necessary to prevent violations, the exercise of the powers of officials of the anti-monopoly body can be held outside working hours (night time, weekends or holidays).

**Footnote. Article 221 as amended by the the Law of the Republic of Kazakhstan dated May 24, 2018 No. 156-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

**Article 222. Suspension and reinstatement of an investigation of a case of infringement of the legislation of the Republic of Kazakhstan in the field of protection of competition**

**Footnote. The title as amended by Law of the RK No. 101-VII of 03.01.2022 (shall be enforced upon expiration of sixty calendar days after the date of its first official publication).**

1. The anti-monopoly body shall be entitled to suspend the investigation of violation of the legislation of the Republic of Kazakhstan in the field of competition protection in the following cases:

1) consideration by the anti-monopoly body, court, criminal prosecution authorities of another case that is relevant for the investigation of violations of the legislation of the Republic of Kazakhstan in the field of competition protection;

2) conducting another investigation of violations of the legislation of the Republic of Kazakhstan in the field of competition protection in relation to the same object of investigation;

3) examination;

4) the need to analyze the state of competition in commodity markets if during the investigation of violations of the legislation of the Republic of Kazakhstan in the field of competition protection it will be established that, despite the excess of a fifty percent share in the market of a certain commodity, the position of the market entity in the commodity market shall not be dominant.

1-1. Investigation of a breach of the legislation of the Republic of Kazakhstan in the field of protection of competition shall be resumed within three working days:

1) in the cases stipulated by sub-paragraph 1) of paragraph 1 hereof - from the date of a decision by an anti-monopoly authority, criminal prosecution authorities, entry into force of a judicial act in another case relevant to the investigation of a violation of the legislation of the Republic of Kazakhstan on protection of competition;

2) in the case provided for in sub-paragraph 2) of paragraph 1 hereof - from the date of completion of another investigation of infringement of the legislation of the Republic of Kazakhstan in the field of protection of competition in respect of the same person subject to investigation;

3) in the case provided for in sub-paragraph 3) of paragraph 1 hereof - from the date of submission of the expert opinion to the competition authority;

4) in the cases provided for in sub-paragraph 4) of paragraph 1 hereof - from the date of completion of the analysis of the state of competition in the commodity market.

2. The term of investigation of violation of the legislation of the Republic of Kazakhstan in the field of competition protection shall be interrupted when the investigation is suspended and continues from the moment the investigation is resumed.

3. A decision to suspend or resume an investigation or to order an expert examination shall be issued by the officials of the competition authority authorised to conduct the investigation. A copy of the ruling on the appointment of an expert examination shall be sent to the expert and the person subject to investigation within three working days from the date of such ruling.

A copy of the decision to suspend, resume the investigation of breaches of legislation of the Republic of Kazakhstan in the field of protection of competition shall be sent to the person subject to investigation within three working days from the date of such determination.

**Footnote. Article 222 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); No. 101-VII of 03.01.2022 (shall enter into force sixty calendar days after the date of its first official publication).**

### **Article 223. Termination of the investigation of violations of the legislation of the Republic of Kazakhstan in the field of competition protection**

The anti-monopoly body stops investigation of violations of the legislation of the Republic of Kazakhstan in the field of competition protection in the event of:

1) the absence in the actions of the investigation object of violations of the legislation of the Republic of Kazakhstan in the field of competition protection;

2) liquidation of a legal entity - the only object of investigation;

2-1) deregistration of a branch of a legal entity - the only object of investigation;

3) the death of an individual - the only object of investigation;

4) the expiry of the period of limitations established by the Administrative Violations Code of the Republic of Kazakhstan;

5) the presence of a judicial act that has entered into legal force, which contains conclusions on the presence or absence of a violation of the legislation of the Republic of Kazakhstan in the field of competition protection in the actions (inaction) considered by the anti-monopoly body.

**Footnote. Article 223 as amended by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

**Article 224. Decisions of the anti-monopoly body based on the investigation results of violations of the legislation of the Republic of Kazakhstan in the field of competition protection**

1. Based on the investigation results of violations of the legislation of the Republic of Kazakhstan in the field of competition protection, an official of the anti-monopoly body prepares an opinion on the basis of which the anti-monopoly body takes one of the following decisions on:

1) termination of the investigation of violation of the legislation of the Republic of Kazakhstan in the field of competition protection on the grounds provided for by Article 223 of this Code;

2) initiation of an administrative violation case and in the cases established by sub-paragraphs 1) and 2) of paragraph 1 of Article 226 of this Code, the issuance of the involvement notice;

3) issuing an order to eliminate violations of the legislation of the Republic of Kazakhstan in the field of competition protection;

4) the transfer of materials to law enforcement authorities for the production of pre-trial investigation.

1-1. The draft conclusion on the investigation results of violations of the legislation of the Republic of Kazakhstan in the field of protection of competition shall be submitted or sent by letter notifying the object of investigation no later than thirty calendar days before the end of the investigation.

2. If the person subject to investigation appeal at least twenty calendar days prior to completion of the investigation, the official(s) of the antimonopoly authority shall, no later than twenty-five calendar days after receipt of such appeal, submit to the conciliation commission a draft conclusion on the investigation of violations of the legislation of the Republic of Kazakhstan in the field of protection of competition.

The conciliation commission shall examine the draft of the submitted opinion within a period not exceeding five calendar days from the date of submission for its completeness and the quality of the evidence provided therein on the facts of violation of the legislation of the Republic of Kazakhstan in the field of protection of competition, inviting the persons involved in the investigation to the meeting.

Following consideration of the draft conclusion, the conciliation commission shall issue its comments and recommendations, recorded in minutes and be forwarded to the official(s) for their work within five working days of the meeting of the conciliation commission.

In the event of disagreement with the comments and recommendations of the conciliation commission, within five working days, the official(s) shall form a reasoned opinion to be considered by the conciliation commission within no more than five working days of the formation of the reasoned opinion by the official(s).

3. The completion of the investigation shall be the day when the official (s) of the anti-monopoly body signs the conclusion on the investigation results of violations of the legislation of the Republic of Kazakhstan in the field of competition protection.

4. The approval of the conclusion on the investigation results of violations of the legislation of the Republic of Kazakhstan in the field of protection of competition is issued by the order of the anti-monopoly body within ten working days from the day of completion of the investigation.

5. The copy of the order on approval of the conclusion on the investigation results, no later than three working days from the date of its signing, shall be served or sent by letter informing the investigation object, with the attachment of the conclusion on the investigation results. The applicant shall be informed on the decision at the same time.

5-1. In the event that, based on the results of the investigation, a decision is made to initiate an administrative offense case, the order to approve the conclusion based on the results of the investigation shall come into force upon expiry of ten working days from the date of its adoption.

The appeal of the order on approval of the conclusion based on the results of the investigation shall suspend the period of its entry into force pending consideration of the complaint.

6. The date of entry into force of the order to approve the conclusion based on the results of the investigation (decision-making) shall be considered the moment when the fact of an administrative offense is discovered.

7. The order to approve the conclusion based on the results of investigation may be appealed to the court in the manner prescribed by the Administrative Procedural Code of the Republic of Kazakhstan by the object of investigation.

**Footnote. Article 224 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (shall be enforced from January 1, 2017); No. 268-VI dated October 28, 2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 29.06.2020 No. 351-VI (shall be enforced from 01.07.2021); No. 101-VII of 03.01.2022 (shall be put into force sixty calendar days after the date of its first official publication).**

## **Chapter 21. RESTRAINT OF BREACH OF LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN ON PROTECTION OF COMPETITION AND REVISION OF ORDERS ISSUED BY THE ANTI-MONOPOLY AUTHORITY**

### **Article 225. The grounds and method for determining the monopoly income**

1. Income gained by the market entity as a result of monopolistic activities restricted by this Code is a monopoly income.

2. A monopoly income can be gained by the market entity as a result of:

1) execution of anti-competitive agreement or coordinated actions of market entities;

2) abuse by the market entity of own dominant or monopolistic position.

3. A monopoly income is determined from the date of carrying out by the market entity of actions specified in Clause 2 hereof, up to the date of cease by the market entity of indicated actions.

4 A monopoly income is determined when:

1) the market entity, taking a dominant or monopolistic position, establishes the monopolistically high prices - as a difference between the income gained when applying monopolistically high price and income calculated on the basis of a price determined in accordance with the provisions of Article 175 hereof;

2) the market entity, taking a dominant or monopolistic position, establishes the exclusively low price- as additional income received by the market entity taking a dominant position, as a result of turnover increase by means of competitors elimination from the product market;

3) fixing by the market entity taking a monopsony position of monopolistically low price- as a difference between the expenses of this market entity for purchase of goods at the price determined on the basis of required to the market entity selling the goods, production expenses and sale of such goods and incomes, and expenses formed during purchase of goods at monopolistically low prices;

4) the market entity enters into anti-competitive agreement or coordinated actions - as total income gained from these actions, after deduction of reasonable expenses required for production and (or) sale of goods, and actually paid taxes.

5. The withdrawal of monopoly income is performed according to the procedure established by the Administrative Violations Code of the Republic of Kazakhstan.

#### **Article 226. Anti-monopoly response measures**

1. In accordance with established powers the anti-monopoly authority is entitled to:

1) give binding orders to the market entities concerning:

elimination of violation of this Code norms and (or) mitigation of its consequences;

recovery of initial position;

cancellation or altering of contracts contradicting this Code;

necessity for cancellation of transactions by cancelling or annulment during regulation of market concentration;

2) give to state, local executive bodies, organizations charged by the government with functions of market entities activities regulation, binding orders concerning cancellation or altering of acts accepted by them, remedy of defaults and instructions, cancellation or alteration of agreements and transactions settled by them, which contradict this Code, and commission of actions aimed at provision of competition;

3) examine cases of administrative offences in the area of protection of competition and restriction of monopoly activities according to the procedure established by the Administrative Violations Code of the Republic of Kazakhstan;



4) bring before a court lawsuits and petitions, and take part in consideration by the court of cases related to application and violation of legislation of the Republic of Kazakhstan in the area of protection of competition.

2. In the violation of this Code standards, the market entities, government bodies, local executive bodies shall:

1) in accordance with orders of anti-monopoly authority to discontinue violation and eliminate its consequences, recover the original position, cancel the contract, conclude a contract with market entity or make an amendment thereto, annul the act which is recognized by the anti-monopoly authority as inconsistent with legislation of the Republic of Kazakhstan on protection of competition, perform other actions stipulated by the order;

2) compensate for incurred losses in accordance with the civil legislation of the Republic of Kazakhstan;

3) execute the decree of the anti-monopoly authority concerning imposition of administrative penalty in accordance with procedure established by the Administrative Violations Code of the Republic of Kazakhstan.

3. The order shall be executed within the reasonable time limits established by the anti-monopoly authority.

The anti-monopoly authority performs a control over execution of issued orders.

In case of failure to execute the orders, the anti-monopoly authority has a right to go to court with a lawsuit for concussion of market entity, government body, local executive body to execute the order of anti-monopoly authority.

**Footnote. Article 226 as amended by the Republic of Kazakhstan laws dated 28.12.2016 No. 34-VI (brought into force since 01.01.2017); dated 24.05.2018 No. 156-VI (brought into force upon the expiry of ten calendar days after its first official publication).**

#### **Article 227. Requirements to execution of an order**

The order is executed on a controlled form of anti-monopoly authority and shall contain:

1) name of market entity and (or) government body, and (or) local executive body, in relation to whom the order is issued, and their officials;

2) description of established fact of violation of legislation of the Republic of Kazakhstan in the area of protection of competition, and statute of the law which have been infringed by the market entity or government body or local executive body, or its officials;

3) actions which shall be taken by the market entity and (or) government body, and (or) local executive body or its officials for elimination of violation of the Republic of Kazakhstan legislation in the area of protection of competition (or from commission of which it shall abstain);

4) time limit for execution of an order;

5) period for submission of information on order execution;

6) signature of a person authorized to sign an order;

7) official seal of anti-monopoly authority.

## **Article 228. Revision of orders issued by the anti-monopoly authority**

1. The anti-monopoly authority on own initiative or upon the application of a person concerned may revise an order (own or from a regional division) in cases:

- 1) if the significant circumstances have been not and could not be known to the anti-monopoly authority, that has resulted in issue of illegal or groundless order;
- 2) if an order was issued on the basis of unreliable information that has resulted in issue of illegal or groundless order;
- 3) if an order was issued with violation of the statues of the laws of the Republic of Kazakhstan;
- 4) correction of mistake made in the order or obvious arithmetic error.

The anti-monopoly authority may suspend the execution of its order until completion of its revision, whereof the persons involved in the case are notified in written.

2. According to results of revision, the anti-monopoly authority may:

- 1) leave the order unchanged;
- 2) alter the order;
- 3) repeal the order;
- 4) issue the new order.

3. During the revision of an order upon the application of a person concerned, the anti-monopoly authority is not eligible to worsen the position of a person who has filed an application (complaint), or a person in whose interests it has been filed.

**Footnote. Article 228 as amended by the RK Law dated 28.12.2016 No. 34-VI (shall be enforced since 01.01.2017).**

## **Article 229. Check of orders of the anti-monopoly authority regional divisions**

**Footnote. Heading of Article 229 as amended by the RK Law dated 28.12.2016 No. 34-VI (shall be enforced since 01.01.2017).**

The orders issued by the regional divisions of anti-monopoly authority may be checked upon the applications of market entities or on the initiative of superior anti-monopoly authority.

**Footnote. Article 229 as amended by the Republic of Kazakhstan Law dated 28.12.2016 No. 34-VI (shall be enforced since 01.01.2017).**

## **Article 230. Appeal of anti-monopoly authority orders**

1. The orders of anti-monopoly authority may be appealed in the court according to the procedure established by legislation of the Republic of Kazakhstan.

2. The grounds for appealing to the anti-monopoly authority of regional divisions orders include:

- 1) failure to identify all circumstances which are relevant to the case;
- 2) lack of evidentiary support of circumstances which are relevant to the case and recognized as ascertained;
- 3) non-compliance of conclusions stated in the judgment with circumstances of the case;

4) violation or improper application of statutory regulations of the Republic of Kazakhstan.

3. The order of a territorial subdivision of the antimonopoly body may be appealed by the market entity within three months from the date when it was handed over to the market entity, in the manner prescribed by the laws of the Republic of Kazakhstan.

**Footnote. Article 230 as amended by the Republic of Kazakhstan Law dated 28.12.2016 No. 34-VI (brought into force since 01.01.2017); dated 29.06.2020 No. 351-VI (shall be enforced from 01.07.2021).**

### **Article 231. Compulsory division or withdrawal in cases of abuse of dominant or monopoly position**

1. In case if the market entity taking dominant or monopoly position, twice during one calendar year was held administratively liable for violations stipulated by Article 174 hereof, and keeps to commit actions restraining the competition, the anti-monopoly authority for the purpose of promotion of competition may file a claim in court for compulsory division of this market entity or withdrawal of one or more of its legal entities on the basis of its structural subdivisions.

2. The court makes a decision concerning compulsory split-off or demerger aimed at promotion of competition, if the following conditions are met in the aggregate:

- 1) no technologically driven interrelation of structural subdivisions;
- 2) there is an opportunity of independent activities at the relevant commodity market for legal entities established as a result of restructuring.

3. The court judgment concerning compulsory split-off or demerger shall be executed by the owner or agency authorized by him with due account for requirements provided by specified judgement, and within the time limits determined by specified judgement, and cannot be more than six months.

**Footnote. Article 231 as amended by the Republic of Kazakhstan Law dated 28.12.2016 No. 34-VI (brought into force since 01.01.2017).**

## **SECTION 5. PRIMARY AREAS AND TYPES OF GOVERNMENT SUPPORT FOR PRIVATE ENTREPRENEURSHIP Chapter 22. GOVERNMENT SUPPORT OF SMALL AND MEDIUM ENTREPRENEURSHIP**

### **Article 232. Types of government support of small and medium entrepreneurship**

The government support of small and medium entrepreneurship is performed by types of government support of private entrepreneurship stipulated by Article 93 hereof, including:

arrangement of conditions for use by small and medium entrepreneurship entities of state financial, material and technical and information resources as well as research and development work and technology;

establishment of simplified procedure of state registration and liquidation;

establishment of optimum tax treatment;

adoption of lending program for small and medium entrepreneurship;  
establishment of system for attraction and use of investments, including foreign ones, for support and development of small and medium-sized entrepreneurship;  
assistance in foreign trade activities of small and medium entrepreneurship entities;  
consulting of small and medium entrepreneurship entities concerning engagement in public purchases of goods, works and services;  
organization of training, retraining and further training of personnel by development of existing and establishment of new training and research centers, consulting organizations and information systems for support and development of small and medium entrepreneurship, and implementation of international programs and projects for sharing experience in the area of small and medium-sized entrepreneurship.

**Footnote. Article 232 as amended by the Law of the Republic of Kazakhstan No. 202-VI dated 26.12.2018 (shall be enforced from 01.01.2019).**

### **Article 232-1. State support for social entrepreneurship**

State support for social entrepreneurship, in addition to the measures of state support for private entrepreneurship provided for by Article 93 of this Code, and the measures of state support for small and medium-sized entrepreneurship provided for by Article 232 of this Code shall be carried out in the form of:

- 1) ensuring the availability of infrastructure to support social entrepreneurship entities;
- 2) provision of tax benefits in accordance with the Code of the Republic of Kazakhstan "On Taxes and Other Obligatory Payments to the Budget" (Tax Code);
- 3) providing financial support to social entrepreneurship entities (including within the framework of subsidizing the interest rate on loans issued by second-tier banks and for paying for property rent (lease) of property);
- 4) provision of property lease (rent) of state property without the right to redeem on preferential terms in accordance with the Law of the Republic of Kazakhstan "On State Property";
- 5) providing information support to social entrepreneurship entities;
- 6) providing consulting and methodological support to social entrepreneurship entities, development through acceleration programs (including on the issues of raising funds, participation in the procurement of goods, works, services).

For the purposes of this Code, acceleration programs mean programs for the intensive development and promotion of social entrepreneurship through training and expert support;

- 7) assistance in the development of interregional cooperation, in the search for business partners (including through holding business events, as well as ensuring the participation of social entrepreneurship entities in these events);
- 8) organizations of vocational education and additional training;
- 9) provision of state grants for the organization and implementation of socially significant projects in the sectors of economy.

**Footnote.** Chapter 20 is supplemented by Article 232-1 in accordance with the Law of the Republic of Kazakhstan dated 24.06.2021 No. 52-VII (shall be enforced from 01.01.2022).

### **Article 233. Business incubators**

1. The business incubator is a legal entity established for support of small business enterprises at the stage of its establishment by provision of production facilities, equipment, organization, legal, financial, consulting and information services.

2. The business incubators are established for rendering of assistance in start-up and development of small business enterprises.

The tasks of business incubators are:

- 1) selection of small business enterprises for placement in business incubator;
- 2) provision to small business entities the educational, marketing, consulting and other organizational and management services;
- 3) state support for innovation activities of small businesses.

**Footnote.** Article 233 as amended by Law of the RK No. 87-VII of 27.12.2021 (shall be effective upon expiry of ten calendar days after its first official publication).

### **Article 234. Property support of small and medium-sized enterprises**

1. The government property facilities not used for more than one year may be transferred to the small and medium entrepreneurship entities in trust or lease for organization of production operation and service industry except for trade mediation activities.

The supervision over fulfillment by small and medium-sized enterprises of terms and conditions of lease agreement or trust management contract is performed by relevant government agencies authorized for disposition of republican and communal property.

2. The state ownership facilities and land parcels occupied thereby, which are transferred in trust or lease for organization of production operation and development of service industry for population may be donated to small and medium-sized entrepreneurship entities, other than entities performing the trade mediation activities, upon the expiry of one year from the date of contract execution in case of fulfillment of conditions provided for thereby according to the procedure determined by central authorized body for state planning.

## **Chapter 23. STATE SUPPORT OF AGRICULTURAL SECTOR AND NON-AGRICULTURAL TYPES OF ENTREPRENEURSHIP ACTIVITIES IN RURAL LOCALITIES**

### **Article 235. State support of agricultural sector development**

1. The state support of private entrepreneurship entities carrying out the agricultural activities is performed by:

- 1) development of lending in the area of agricultural complex and rural regions;
- 2) subsidization of agricultural complex;
- 3) procurement of agricultural products at a guaranteed purchasing price;
- 4) technical fit-out of agricultural complex;
- 5) information and marketing collateral of agricultural complex;

6) scientific, standard and methodological support and personnel training for agricultural complex;

7) investments to development of social and engineering infrastructure of rural regions;

8) application of financial instruments supporting conditions for modernization of fixed production-related assets- farming machinery park, process equipment, and livestock inventory;

9) creation of necessary conditions for investment attraction to agriculture;

10) support of products export;

11) development of sectoral science and spread of agricultural and technological knowledge;

12) provision of other forms of state support.

2. The state support of private entrepreneurship entities carrying out the agricultural activities and non-agricultural types of entrepreneurial activities in rural regions is performed on republican and regional levels and shall be governed according to the laws of the Republic of Kazakhstan.

3. The time limits, scope and measures of state support for private entrepreneurship carrying out the agricultural activities are established in accordance with the laws of the Republic of Kazakhstan.

#### **Article 236. Crediting in the area of agricultural complex and rural regions**

1. The crediting in the area of agricultural complex and rural regions is performed by budgetary crediting in accordance with budget legislation of the Republic of Kazakhstan or participation in forming or increase of charter capital of specialized organizations.

2. The crediting in the area of agricultural complex and rural regions is performed across the following areas with due account for provisions provided by the Republic of Kazakhstan Law "On government regulation of development of agricultural complex and rural regions":

1) establishment and development of farm production infrastructure;

2) leasing of farm machinery and processing facilities, equipment and fishing gear for fishing industry;

3) organization and crediting of credit societies performing crediting in agricultural complex;

4) crediting of non-agricultural types of entrepreneurial activities in rural regions;

5) purchase, production, processing and sale of agricultural products;

6) fish-rearing and processing of fish products;

7) arrangement of microlending for rural population.

#### **Article 237. Subsidization of agricultural complex**

1. The subsidization of agricultural complex is performed as an economic incentive of agro-based industries development under the following conditions:

1) economic efficiency of subsidization focused on development of agricultural complex areas;

2) improvement of quality and competitive ability of outputs.

2. The subsidization of agricultural complex is performed across the areas provided by the Republic of Kazakhstan Law "On government regulation of development of agricultural complex and rural regions", according to the procedure determined by authorized body in agricultural complex development.

### **Article 238. Implementation of price stabilization mechanisms for socially important food products**

1. In order to stabilize the market for food products, the state shall implement the price stabilization mechanisms for socially important food products.

2. The price stabilization mechanisms for socially important food products shall be implemented in accordance with the rules of implementation the price stabilization mechanisms for socially important food products.

3. The list of specialized organizations implementing the price stabilization mechanisms for socially important food products shall be approved by the Government of the Republic of Kazakhstan.

**Footnote. Article 238 is in the wording of the Law of the Republic of Kazakhstan No. 241 -VI dated 02.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 239. Information support of agricultural complex**

1. Information and marketing collateral of agricultural complex is performed by means of:

- 1) organization of information and marketing system of agricultural complex;
- 2) publication of information materials in mass media and printing of specialized collections, magazines, industry publications;
- 3) assistance in creation and development of up-to-date information and communication technology and information systems;
- 4) organization of exhibition fairs and provision of advertising support of products of domestic agricultural goods producers;
- 5) organization of training workshops;
- 6) scientific, standard and methodological support and personnel training for agricultural complex;
- 7) development of agricultural science and spread of scientific research results to production activities.

2. The list of information and services operator to submission to the agricultural complex entities free of charge by specialized organizations is determined by authorized body in the area of agricultural complex development.

### **Article 240. State support for insurance in the agricultural sector**

State support for insurance in the agro-industrial complex shall be carried out in the manner established by the Law of the Republic of Kazakhstan "On State Regulation of the Development of the Agro-Industrial Complex and Rural Areas."

Footnote. Article 240 as amended by Law of the Republic of Kazakhstan No. 268-VI dated 28.10.2019 (shall be enforced since 06.01.2020).

#### **Article 241. The state support of peasant farms and farming enterprises**

1. The state promotes the development and protection of domestic peasant or farming market.

2. The peasant or farming enterprises with average annual number of employees not greater than fifty persons and yearly average gross assets value not greater than sixty thousand-fold calculated rate:

The procedure of Subclause 1) enforcement see Clause 14 Article 324 of the RK Code dated 29.10.2015 No. 375-V.

1) in the manner and on the terms provided for by legislation of the Republic of Kazakhstan, excused from payment for connected power in electrical energy, heat-, water supply and sewerage using the laws of the Republic of Kazakhstan concerning natural monopolies;

2) open the accounts with partially state-owned second-tier banks, without charge;

3) keep accounting records and prepare the financial statements using the simplified procedure;

4) is excluded by Law of the Republic of Kazakhstan No. 268-VI dated 28.10.2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication);

5) obtain the information services (funds) and development projects and technology on a preferential basis within the limits of funds allocated in the state budget for relevant year within the state financial support of small business;

6) perform the training, retraining and further training of personnel using the funds provided for support of small business.

3. The peasant and farming enterprises have a right to apply the simplified or generally established procedure for calculation and payment of certain types of taxes in accordance with the Republic of Kazakhstan Code "On taxes and other compulsory payments to budget" (Tax Code).

4. The legal entities of the Republic of Kazakhstan investing to agriculture and not using the special tax regime may be provided with investment preferences in the manner and on the terms stipulated by this Code.

Footnote. Article 241 as amended by Law of the Republic of Kazakhstan No. 268-VI dated 28.10.2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

#### **Chapter 23-1. State support for innovation**

Footnote. The Law as supplemented by Chapter 23-1 pursuant to Law of the RK No. 87-VII of 27.12.2021 (shall be enacted upon expiry of ten calendar days after the date of its first official publication).



## **Article 241-1. Definition and content of innovation activities**

1. Innovation activities shall refer to the activities (including intellectual, creative, scientific, scientific-technical, technological, industrial-innovation, info-communication, organisational, financial and/or commercial activities) aimed at creating innovations.

Innovative activities shall involve a high entrepreneurial risk, characterised by uncertainty in the market outlook for innovative activities and possible losses of invested financial and other resources.

2. An innovation project shall refer to a set of activities implemented over a specified period of time as part of an innovation activity and aimed at creating and/or introducing a new or improved product or process and bringing it to the consumer.

3. An innovation shall mean a new or improved result of innovation in the form of a product (good, work or service) made available to potential users, or a process commissioned, that provides a competitive and comparative advantage over previous products or processes.

4. The innovation actors shall include natural persons, legal entities and simple partnerships that implement innovative projects.

5. The target of innovation activities shall include all kinds of innovations that can be embodied in goods, works, services, processes and technologies so that they can be considered as new or advanced.

## **Article 241-2. Goal, objectives and basis of state support for innovation activities**

1. The goal of state support for innovation activities shall be to create an environment conducive to the introduction of a new or significantly improved product (good, work or service), technology or process, a new marketing method or a new organisational method in business practices, organisation of jobs or external relations so as to increase the competitiveness of the national economy.

2. The objectives of state support for innovation activities shall include:

1) creating an environment conducive to identifying, nurturing, attracting and retaining talent and the professional development of scientific, engineering and entrepreneurial personnel;

2) creating an environment conducive to the technological modernisation of the basic sectors of the national economy and its diversification by developing high-tech industries, increasing the technological sophistication of the economy and making the economy and society more receptive to innovation;

3) support for innovation activities, efficient innovation implementation, development of high-tech industries, corporate innovation and technology transfer;

4) creating conditions for the development of start-up infrastructure and a culture of venture capital investment;

- 5) fostering demand for innovation;
  - 6) assisting innovation actors in commercialising technologies, the results of scientific and (or) scientific-technical activities, and creating an environment for the development of knowledge-intensive businesses;
  - 7) assisting innovation actors in international cooperation in the field of innovation, including cooperation in the training of highly qualified personnel for innovation activities;
  - 8) assisting innovation actors in improving productivity and developing innovation clusters;
  - 9) creating an enabling environment for the implementation of state technology policy.
3. State support for innovation shall be based on:
- 1) ensuring equal access for innovation actors to receive state support in conformity with this Code;
  - 2) publicity, targeting and transparency of state support measures for innovation;
  - 3) balancing the interests of the state and the innovation actors;
  - 4) optimising public support measures for the successful implementation of innovation projects by innovation actors with due regard to their individual characteristics;
  - 5) comprehensiveness and consistency, ensuring continuous interaction between the state and innovation actors;
  - 6) providing state support throughout the innovation lifecycle by establishing an efficient science, technology and innovation communication system.

**Article 241-3. Innovation system actors involved in public support for innovation activities**

1. Innovation system actors involved in state support for innovation activities shall include the national innovation development institute and other legal entities, where fifty percent or more of the voting shares (stakes in the charter capital) are directly or indirectly owned by the state, authorised to implement measures of state support for innovation activities.

2. Innovation system actors involved in public support for innovation activities shall:

- 1) offer methodological and advisory support for technology foresight, enforcement of state technology policy and development of innovation infrastructure;
- 2) render information, analytical and advisory services in the field of innovation development;
- 3) invest in innovation projects by participating in charter capitals of entities involved in innovation activities, creating legal entities with foreign participation, creating or participating in investment and venture capital funds and in other ways envisaged by the legislation of the Republic of Kazakhstan;
- 4) engage in the creation, management and coordination of technology platforms, technology commercialisation centres, technology parks, business incubators, accelerators,

international technology transfer centres, joint ventures in the form of technology development centres;

5) collaborate with international organisations to attract information, education and financial resources to foster technological development in priority sectors of the economy;

6) ensure availability of information on ongoing innovation projects, implemented technologies, results of analyses on technology foresight;

7) engage in the implementation of state support mechanisms for business incubation, start-up acceleration, technology commercialisation and technology transfer, and strengthening the human, managerial and production potential of innovation actors;

8) issue expert opinions and/or recommendations to public authorities on innovative activities;

9) serve the authority responsible for state support for innovation activities in providing innovation grants;

10) render services to the competent authority in the area of state support for innovation activities for the realisation of state technology policy;

11) facilitate the development of risk investment funds, venture capital funds and venture financing;

12) offer acceleration services, business incubation services to innovation actors to undertake marketing and other activities, and search for potential investors;

13) participate in advocacy for innovation, including by organising competitions for innovators, rationalisers and inventors;

14) may provide services to charitable organizations, endowment funds for examination, monitoring of innovative projects.

**Footnote. Article 241-3 as amended by the Law of the Republic of Kazakhstan dated 14.07.2022 No. 141-VII (shall be enforced ten calendar days after the date of its first official publication).**

#### **Article 241-4. State technology policy**

1. State technology policy constitutes a system of economic, organisational and legal measures implemented by the state and/or innovation actors aimed at identifying technology priorities, developing infrastructure and competencies for their implementation, including the establishment of technology platforms, sectoral centres of technological competencies, realisation of targeted technology programmes, with the aim of increasing the level of technological development of the national economy, its sectors and private actors.

2. The Technological Policy Council, an advisory and consultative body headed by the Prime Minister of the Republic of Kazakhstan, shall operate to formulate and implement state technology policy.

The main objectives of the Technology Policy Board shall be:

- 1) identifying priorities for technological development and the main directions of state technological policy;
- 2) making recommendations to public authorities on the country's innovative and technological development;
- 3) harmonising proposals for improving the innovation system and the activities of the innovation system actors involved in public support for innovation activities;
- 4) reviewing the state's emerging technology policy in sectoral areas;
- 5) considering initiatives by public authorities to identify sectoral technology competence centres, target technology programmes and the organisation of sectoral technology platforms.

#### **Article 241-5. Instruments of the state technology policy formation and implementation**

1. Technology platforms shall be established for the formation and implementation of state technology policy.

The technological platform shall constitute a complex consisting of interrelated and complementary elements of educational, scientific and industrial-innovation infrastructure, actors of scientific, scientific-technical, innovation and industrial activity, necessary to ensure a continuous process of generation and improvement of technologies, training of personnel, implementation of innovation projects.

The technological platform shall serve also as a tool for communication and market-oriented coordination of private businesses, scientific organizations, educational organizations, government agencies, organizations of the quasi-public sector for the technological development of sectors of the economy.

2. For the purpose of development of the state technological policy of the respective industry or technological direction and to ensure its continuity, the public authorities shall designate industry centers of technological competence.

The key objectives of industry technology competence centers shall include monitoring global technology trends, identifying current conditions and competitive advantages for accelerated technological development, as well as the needs and concerns of private businesses.

Further criteria for sectoral centers of technological competence shall be identified as per the methodology and criteria for technological forecasting, functioning of sectoral centers of technological competence, organization of technological platforms and development of target technological programs.

3. Technology foresight shall serve to formulate technology policy.

Technology foresight shall refer to a complex of analytical studies aimed at revealing the key (priority) technologies, the development thereof is a prerequisite for sustainable innovative development of the state.

Technology foresight shall involve industry centers of technological competence in the respective industries in collaboration with technology platforms by attracting foreign and

domestic experts, conducting surveys and analytical studies, summarizing the data obtained and the formation of recommendations.

The results of technology foresight shall be accounted for in the formation of state technology policy and the prioritization of innovative grants.

4. Targeted technological programs shall be elaborated and adopted to implement the technological policy.

The target technology program shall mean a range of measures to develop key (priority) technologies and solve technological problems of the industry, based on the interaction of the state, business and science.

Targeted technological programs shall be developed by participants of technological platforms.

Innovative projects realized as part of targeted technological programs shall have priority in the awarding of innovation grants and other measures of state support of innovative activities.

5. Technology foresight and development of target technology programs shall be implemented as per the methodology and criteria of technology foresight, functioning of industry technology competence centers, organization of technology platforms and development of target technology programs.

#### **Article 241-6. Instruments for stimulating innovation activity and innovation system analysis**

1. The instruments for stimulating innovative activity include outreach support for innovation and the dissemination of knowledge, including by commercializing technology.

Promotion (support) of commercialization of technologies shall be performed by:

1) organizing and/or conducting events aimed at the formation and development of competencies in the field of technological business;

2) forming and developing a system of searching for technologies, their identification and assistance in their promotion in the market;

3) by other means prescribed by the laws of the Republic of Kazakhstan.

2. The instrument for the analysis of the innovation system shall be an assessment of the efficiency of implementation of measures of state support for innovation activities undertaken by state agencies, local executive bodies, the national development institute in the field of innovation development and other legal entities empowered to implement measures of state support for innovation activities, implementation of technology policies and target technology programs.

Independent analysis of the efficiency of the innovation system with the development of recommendations shall be performed by the innovation observatory established by the Government of the Republic of Kazakhstan.

Methodology for evaluation of efficiency of realization of state support measures of innovative activity shall be adopted by the competent authority in the field of state support of innovative activity.

Evaluation of the efficiency of measures of state support to innovation activities to provide innovation grants shall consider such features of innovation activities as high entrepreneurial risk, characterized by uncertainty of market prospects for innovation activities and possible losses of invested financial, and other resources.

#### **Article 241-7. Measures of state support of innovative activity**

1. This Code shall stipulate the measures of state support for innovation activities, with account of the specifics defined by the laws of the Republic of Kazakhstan.

2. The measures of state support for innovation activities shall include:

- 1) co-financing of venture capital funds;
- 2) providing innovative grants.

3. The state support of innovative activity shall be specified under this Code, the Law of the Republic of Kazakhstan “On Industrial Policy” and other legislation of the Republic of Kazakhstan.

#### **Article 241-8. Co-financing of venture capital funds and private venture capital investors**

1. Venture funds and private venture investors shall be co-financed by the innovation system actors involved in the state support of innovation activities.

2. Venture capital financing shall mean activities related to the financing of persons engaged only in innovative activities by investing in their charter capitals, purchasing financial instruments issued by them or providing them with cash loans.

3. A private venture investor shall refer to a natural person who provides venture capital financing to startup companies and who provides them with expert support if they so desire.

#### **Article 241-9. Provision of innovation grants**

1. Innovation grant shall mean budgetary funds provided to innovation entities on a non-repayable basis for the implementation of their innovation projects as part of the priority areas of innovation grants.

Innovation grants shall be provided by the competent authority for state support of innovation activities with the involvement of the national institute for development in the field of innovation development.

Competition for innovative grants may be held in selected priority areas in conjunction with the infrastructure to support private enterprise and (or) the innovation system actors involved in the state support of innovative activity.

2. Innovation grants shall be awarded to innovation activity actors by co-financing the implementation of innovation projects.

3. Innovation grants shall be awarded for:

- 1) technology commercialization;
- 2) technology development of existing enterprises;
- 3) technology development in the industries.

4. When innovative grants are awarded, an expertise shall be performed under the rules for the awarding of innovative grants.

The rules for awarding innovation grants shall establish the criteria for awarding innovation grants.

5. The National Institute for Innovative Development shall monitor innovation grants awarded to analyze the achievement of the planned objectives for innovation projects that have received innovation grants.

6. The National Institute of Development in the field of innovative development shall open a current account in a second-tier bank - a resident of the Republic of Kazakhstan for the management of funds allocated for the provision of innovative grants under an agreement concluded between the competent authority for state support of innovative activity and the National Institute of Development in the field of innovative development.

The balances in the current account at the end of the fiscal year shall not be returned to the competent authority in the field of state support for innovation and, consequently, to the state budget, but shall be allocated for innovative grants in the next fiscal year. The total amount of money for innovation grants shall be allocated to all innovation grants.

## **Chapter 24. State incentives for industry**

**Footnote.** The title of chapter 24 - as reworded by Law of the RK No. 87-VII of December 27, 2021 (shall be enacted ten calendar days after the date of its first official publication).

### **Paragraph 1. Industrial and innovative activities**

**Footnote.** Paragraph 1 is excluded by Law of the RK No. 87-VII of 27.12.2021 (shall come into force ten calendar days after the date of its first official publication).

### **Paragraph 2. Industrial and innovative system of the Republic of Kazakhstan**

## **Article 245. Goal of development of industrial and innovative system of the Republic of Kazakhstan**

**Footnote.** Article 245 is excluded by Law of the RK No. 87-VII of December 27, 2021 ( shall enter into force ten calendar days after the date of its first official publication).

**Article 246. Operators of industrial and innovative system involved in state support of industrial and innovative activities**

Footnote. Article 246 is excluded by Law of the RK No. 87-VII of December 27, 2021 (shall be put into effect ten calendar days after the date of its first official publication).

**Article 247. Industrial Innovation Structure**

Footnote. Article 247 is excluded by Law of the RK No. 87-VII of December 27, 2021 (shall take effect ten calendar days after the date of its first official publication).

**Article 248. Special Economic Zones**

Footnote. Article 248 is excluded by Law of the RK No. 87-VII of December 27, 2021 (shall become effective ten calendar days after the date of its first official publication).

**Article 249. Industrial zones**

Footnote. Article 249 is excluded by Law of the RK No. 87-VII of December 27, 2021 (shall become effective ten calendar days after the date of its first official publication).

**Article 250. Technology park**

Footnote. Article 250 is excluded by Law of the RK No. 87-VII of 27.12.2021 (shall enter into force on 01.07.2022).

**Article 251. Joint-Stock Investment Funds**

Footnote. Article 251 is excluded by Law of the RK No. 87-VII of December 27, 2021 (shall be put into effect ten calendar days after the date of its first official publication).

**Article 251-1. Venture funds, private venture investors and venture financing**

Footnote. Article 251-1 is excluded by Law of the RK No. 87-VII of December 27, 2021 (shall be brought into effect ten calendar days after the date of its first official publication).

**Article 252. Technology Commercialization Center**

Footnote. Article 252 is excluded by Law No. 87-VII of the RK dated December 27, 2021 (shall take effect ten calendar days after the date of its first official publication).

**Article 253. Construction design office**

Footnote. Article 253 is excluded by Law No. 87-VII of the RK of December 27, 2021 (shall be enacted ten calendar days after the date of its first official publication).

**Article 254. International Technology Transfer Centers**

Footnote. Article 254 is excluded by Law of the RK No. 87-VII of December 27, 2021 (shall be put into effect ten calendar days after the date of its first official publication).

**Article 255. Innovation Cluster**

Footnote. Article 255 is excluded by Law of the RK No. 87-VII of December 27, 2021 (shall enter into force ten calendar days after the date of its first official publication).

**Article 256. Instruments of industrial innovation system**

Footnote. Article 256 is excluded by Law of the RK No. 87-VII of 27.12.2021 (shall come into force ten calendar days after the date of its first official publication).

**Paragraph 3. State support of industrial innovation entities**



Footnote. Paragraph 3 is excluded by Law of the RK No. 87-VII of 27.12.2021 (shall take effect ten calendar days after the date of its first official publication).

#### **Article 272-1. State incentives for industry**

1. The state incentives for industry shall be implemented under this Code and the Law of the Republic of Kazakhstan “On Industrial Policy”.

2. The Law of the Republic of Kazakhstan “On Industrial Policy” shall envisage the measures of state incentives for industry, mainly aimed at the development of manufacturing industry in the country, as well as the conditions for their provision.

Footnote. Chapter 24 as supplemented by Article 272-1 under Law No. 87-VII of the RK dated December 27, 2021 (shall be enacted ten calendar days after the date of its first official publication).

#### **Article 272-2. Industrial policy**

1. The state incentives for industry shall be implemented by providing measures of state incentives for industry in the implementation of industrial policy under the Law of the Republic of Kazakhstan “On Industrial Policy”.

2. Priorities and areas of industrial policy shall be identified by documents of the State Planning System in the Republic of Kazakhstan.

3. The Law of the Republic of Kazakhstan “On Industrial Policy” shall establish the goal, objectives and principles of industrial policy, procedures and mechanisms for its formation and implementation.

Footnote. Chapter 24 as supplemented by Article 272-2 under Law No. 87-VII of the RK dated December 27, 2021 (shall come into effect ten calendar days after the date of its first official publication).

#### **Article 272-3. Areas of implementation of industrial policy**

Industrial policy in the Republic of Kazakhstan shall be realized under the Law of the Republic of Kazakhstan “On Industrial Policy” in the following areas:

- 1) basic environment for industrial development;
- 2) market promotion;
- 3) increasing the efficiency and competitiveness of industry.

Footnote. Chapter 24 as supplemented by Article 272-3 under Law No. 87-VII of the RK dated December 27, 2021 ( shall put into effect ten calendar days after the date of its first official publication).

#### **Article 272-4. Industrial and innovative activity**

Footnote. Article 272-4 was valid until 01.07.2022 in accordance with the Law of the Republic of Kazakhstan dated 27.12.2021 No. 87-VII.

## **Chapter 25. STATE SUPPORT FOR INVESTMENT ACTIVITIES Paragraph 1. Legal regime of investments**

### **Article 273. Investment relations**

1. Regulation of relations, connected with investments in the Republic of Kazakhstan, and defining the legal and economic framework for investment promotion, guarantee of investors' rights protection when investing in the Republic of Kazakhstan, defining measures of state investments support, the disputes settlement with participation of investors is carried out in this Code.

2. This Code does not regulate relations related to:  
implementation of investments from the state budget;  
investing in non-profit organizations, including for educational, charitable, scientific or religious purposes.

3. The provisions of this Chapter shall be applied to the relations arising in the implementation of investments and related to the scope of other laws of the Republic of Kazakhstan in the part that does not contradict such laws.

4. The relations associated with the attraction of foreign labor by the investor under the concluded investment contract are regulated by the legislation of the Republic of Kazakhstan on migration of the population.

Footnote. Article 273 as amended by the Law of the Republic of Kazakhstan dated 20.04.2023 No. 226-VII (shall be enforced from 01.07.2023).

### **Article 274. Concepts of investment, investor, big investor and investment activities**

1. Investments are all types of property (except goods intended for personal consumption), including financial leasing items since the conclusion of the lease agreement, as well as the rights to them, invested by the investor in the authorized capital of the legal entity or an increase in fixed assets used for entrepreneurial activities, as well as for the implementation of the public-private partnership project, including the concession project.

2. An investor means individuals and legal entities investing in the Republic of Kazakhstan.

3. The activities of individuals and legal entities to participate in the authorized capital of commercial organizations or to create or to increase fixed assets used for entrepreneurial activities, as well as for the implementation of the public-private partnership project, including the concession project, is recognized as investment activities.

4. Big investor is an individual or legal entity, making investments in the Republic of Kazakhstan in the amount of not less than two million of monthly calculation index.

### **Article 275. Investment entities**

1. Investors have the right to invest in any entities and types of entrepreneurial activities, except as provided for by the laws of the Republic of Kazakhstan.

The rights and obligations of investors in respect of the entities and types of entrepreneurial activities, in which investments are made, shall be established by this Code, other laws of the Republic of Kazakhstan and relevant agreements.

2. The laws of the Republic of Kazakhstan, based on the need to ensure national security, may determine the types of activities and (or) territory in respect of which investment activities is limited or prohibited.

#### **Article 276. Legal protection guarantee of investors' activities on the territory of the Republic of Kazakhstan**

1. Investor shall be provided with full and unconditional protection of the rights and interests ensured by the Constitution of the Republic of Kazakhstan, this Code and other regulatory and legal acts of the Republic of Kazakhstan, as well as the treaties ratified by the Republic of Kazakhstan.

2. According to the civil legislation of the Republic of Kazakhstan, the Investor shall have the right for compensation for harm caused as a result of the issue by public authorities of the acts inconsistent with the laws of the Republic of Kazakhstan, and also illegal actions (omission to act) from the part of public authority officials.

3. The Republic of Kazakhstan guarantees the stability of the terms of contracts concluded between investors and state bodies of the Republic of Kazakhstan, except for the cases when amendments to the contracts are made by agreement of the parties.

These guaranties do not apply to:

1) amendments in the legislation of the Republic of Kazakhstan and (or) entry into force and (or) amendments in treaties of the Republic of Kazakhstan, by which the order and conditions of import, production, sale of excisable goods are amended;

2) amendments and additions to the laws of the Republic of Kazakhstan in order to ensure national security, public order, protection of health and morality of the population.

#### **Article 277. Income guarantees**

Investors have the right:

1) at its discretion, use the income received from its activities, after payment of taxes and other mandatory payments to the budget, in accordance with the legislation of the Republic of Kazakhstan;

2) open bank accounts in the national currency and (or) foreign currency in banks in the territory of the Republic of Kazakhstan in accordance with the banking and currency legislation of the Republic of Kazakhstan.

#### **Article 278. Transparency of the activities of public authorities in relation to investors and ensuring investors' access to information related to the implementation of investment activities**

1. Official reports of the state bodies of the Republic of Kazakhstan and regulatory legal acts affecting the interests of investors shall be published in the manner prescribed by the legislation of the Republic of Kazakhstan.

2. Investors, including investors, who have made investments in the amount of less than ten percent of the voting shares (less than ten percent of the votes of the total number of participants), are provided with free access to information on the registration of legal entities, their charters, registration of real estate transactions, issued licenses, as well as other information provided for by the laws of the Republic of Kazakhstan, which is related to the implementation of investment activities and does not contain commercial and other secrets protected by law.

#### **Article 279. Guarantees of investors' rights during nationalization and requisition**

1. Forcible withdrawal of the investor's property (nationalization, requisition) for state needs is allowed in exceptional cases provided for by the laws of the Republic of Kazakhstan.

2. In case of nationalization, the investor shall be compensated by the Republic of Kazakhstan in full for losses caused to him as a result of the publication of legislative acts of the Republic of Kazakhstan on nationalization.

3. Requisition of the investor's property is carried out with the payment of market value of the property.

Market value of the property is determined in accordance with the legislation of the Republic of Kazakhstan.

4. Evaluation, where the owner was reimbursed for the value of requisitioned property may be challenged by them in court.

5. Upon termination of the circumstances in connection with which the requisition was made, the investor has the right to demand the return of the remaining property, but is obliged to return the amount of compensation received by him, taking into account the losses from the reduction in the value of the property.

#### **Article 280. Transfer of investor's rights to another person**

If a foreign state or its authorized state body makes payments in favor of the investor under the guarantee (insurance contract), provided for to him in respect of investments made in the territory of the Republic of Kazakhstan, and to this foreign state or its authorized state body transfer the rights (requirements are assigned) of the investor to these investments, in the Republic of Kazakhstan such transfer of rights (assignment of claim) is recognized as lawful only in case of investments implementation by the investor in the Republic of Kazakhstan and (or) performance of certain contractual obligations by him.

#### **Paragraph 2. State investment support**

#### **Article 281. Purpose of state investment support**

1. The purpose of state investment support is to create a favorable investment climate for the development of the economy and to stimulate investment in the creation of new,

expansion and renovation of existing industries with the use of modern technologies, Kazakhstan personnel development, as well as environmental protection.

2. The state support of investments shall include granting state preferences in the form of investment preferences and (or) providing guarantees of stability when changing the tax legislation of the Republic of Kazakhstan under the Code of the Republic of Kazakhstan “On Taxes and Other Obligatory Payments to the Budget” (the Tax Code).

The types, conditions and procedure for state preferences provision under agreements on the processing of solid minerals are determined by the Code of the Republic of Kazakhstan " On Subsoil and Subsoil Use".

**Footnote. Article 281 as amended by the Law of the Republic of Kazakhstan dated December 27, 2017 No.126-VI (effective upon expiry of six months after its first official publication); No. 87-VII of 27.12.2021 (shall come into effect on 01.01.2022).**

**Article 282. Authorized investment authority:**

1. State support for investments shall be carried out by the authorized investment body, determined by the Government of the Republic of Kazakhstan, for the conclusion of investment contracts and control over their execution, with the exception of special investment contracts.

2. Authorized body for investments within its competence and in order to perform its tasks has the right, in accordance with the procedure established by the Government of the Republic of Kazakhstan, to attract specialists of relevant state bodies, consultants and experts from among individuals and legal entities of the Republic of Kazakhstan.

3. The authorized investment agency coordinates and monitors the activities for support the investors by one-stop-shop principle for investors carried out by the national company for investment attraction and its regional representatives and representative offices, regional organizations for investment attraction.

4. Is excluded by the Law of the Republic of Kazakhstan No. 243-VI dated 03.04.2019 ( shall be enforced upon expiry of ten calendar days after its first official publication).

5. Is excluded by the Law of the Republic of Kazakhstan No. 243-VI dated 03.04.2019 ( shall be enforced upon expiry of ten calendar days after its first official publication).

6. Is excluded by the Law of the Republic of Kazakhstan No. 243-VI dated 03.04.2019 ( shall be enforced upon expiry of ten calendar days after its first official publication).

7. Authorized body for investments issues applications for obtaining an investor visa for persons who are non-residents of the Republic of Kazakhstan and carry out investment activities in the territory of the Republic of Kazakhstan in the manner determined by the authorized body for investments.

8. Authorized body for investments shall assist investors in securing a guaranteed order from interested legal entities in accordance with the investment contract concluded between an authorized investment body and an investor.

8-1. The authorized body for investments shall develop and approve the procedure for determining the project as an investment project for the provision of state-owned land plots.

The procedure provided by part one of this Paragraph shall, but not limited to, provide by a procedure for coordinating the provision of a land plot with the relevant regional coordination council.

9. Activities of the authorized body for investments is regulated by the regulations approved by the Government of the Republic of Kazakhstan.

**Footnote. Article 282 as amended by the Law of the Republic of Kazakhstan No. 243-VI dated 03.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 272-VI dated November 25, 2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 30.06. 2021 No. 59-VII ( shall be enforced from 01.01.2022).**

### **Article 282-1. One-stop-shop principle for investors**

1. By the One-stop-shop principle for investors shall be understood a centralized form of assistance to investors by a national company for attracting investments and its regional representatives and representative offices, regional organizations for attracting investments for public services, as well as other services provided by other organizations, minimizing the participation of investors in the collection and preparation of documents and restriction of their direct contact with state authorities.

2. The rules for organizing a "one window" for investors, as well as the procedure for interaction when attracting investments, are approved by the authorized investment body and determine the size of investments in specific sectors of the economy to receive services on the "one window" principle, as well as the procedure:

1) organization of support to the investor on one-stop-shop principle by a national company for attracting investments and its regional representatives and representative offices, regional organizations for attracting investments in order of implementing investment projects in the Republic of Kazakhstan;

2) coordination of the authorized investment agency with the national company for attracting investments and its regional representatives and representative offices, regional organizations for attracting investments on the issue of organizing support for investment projects to attract investments at central and regional levels;

3) coordination of the national company for attracting investments and its regional representatives and representative offices, regional organizations for attracting investments with foreign institutions, state authorities, local executive agencies, organizations, and other non-governmental organizations on issues of attracting investments;

4) monitoring the process of rendering state and other services provided by state authorities and other organizations for carrying out investment activity of investors, as well as monitoring support of investment projects for attracting investments.

The authorized investment agency, by a joint order with the state authorities responsible for the provision of state and other services, shall determine the responsible persons for coordination under the provision of these services to investors and accompanying them in the state authorities and other organizations.

3. The national company for attracting investments and its regional representatives and representative offices, regional organizations for attracting investments within one-stop-shop principle for investors shall have the right to petition central and local executive agencies, as well as other organizations, on consideration the investor application and enter investors documents to state authorities and other organizations in terms for state and other services.

**Footnote. Chapter 25 is supplemented by Article 282-1 in accordance with the Law of the Republic of Kazakhstan No. 243-VI dated 03.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).**

**Article 282-2. A national company in the field of attracting investments and its regional representatives and representative offices**

1. A national company in the field of attracting investments is determined by the decision of the Government of the Republic of Kazakhstan.

2. A national company in the field of attracting investments and its regional representatives and representative offices:

1) conducts analytical studies to improve the investment attractiveness of the Republic of Kazakhstan;

2) provides support for the activities of investors, including organizing meetings of investors with officials of state bodies, subjects of industrial and innovative activity, as well as associations of private entrepreneurs, conducts business forums, conferences and seminars on investment topics, forms and maintains a database of existing and prospective investors, assists investors in solving emerging questions;

3) promotes a favorable investment image of the Republic of Kazakhstan, including providing information about investment opportunities;

4) monitors the implementation of official agreements reached following negotiations with investors;

5) monitors industrial and innovative projects implemented with the participation of investors;

6) interacts with investors on the principle of "one window" in terms of supporting investors in obtaining public services, as well as other services provided by other organizations;

7) carries out work to attract investors to the production of industrial products, including according to the list of priority goods.

Footnote. Paragraph 2 is supplemented by Article 282-2 in accordance with the Law of the Republic of Kazakhstan dated 30.12.2022 No. 177-VII (shall be enforced ten calendar days after the date of its first official publication).

### **Article 283. Concept and types of investment preferences**

1. Investment preferences are targeted advantages, provided to legal entities of the Republic of Kazakhstan in accordance with the laws of the Republic of Kazakhstan, implementing investment project, and leasing companies, importing technological equipment within the framework of the investment project under financial leasing agreement for a legal entity of the Republic of Kazakhstan, implementing the investment project;

A legal entity of the Republic of Kazakhstan - a legal entity, including a legal entity with foreign participation, established in the manner state by the legislation of the Republic of Kazakhstan;

2. The following types of investment preferences are provided for the investment project (including investment priority project):

- 1) exemption from customs duties and value added tax on imports;
- 2) government grant-in-kind.

3. Tax preferences shall be provided for an investment priority project (hereinafter - investment preferences for an investment priority project).

4. Excluded by the Law of the Republic of Kazakhstan dated December 25, 2017 No. 122 -VI (effective from January 1, 2018).

5. On a special investment project in the form of investment preferences (hereinafter – investment preferences for special investment project) is provided for exemption from taxation:

import customs duty;

taxes in accordance with the tax legislation of the Republic of Kazakhstan.

Footnote. Article 283 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (effective from January 1, 2017); dated December 25, 2017 No. 122-VI (effective from January 1, 2018); dated 02.01.2021 No. 399-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

### **Article 284. Investment project**

Investment project is a set of activities involving investments in the creation of new, expansion and (or) renewal of existing production, including production, created, expanded and (or) updated during the implementation of the public-private partnership project, including the concession project.

Investment priority project is an investment project:

for the creation of new industries providing for the implementation by a legal entity of investments in the construction of new production facilities, in the amount of at least two million times the monthly calculation index established by the law on the republican budget and in force on the date of filing an application for the provision of investment preferences;



on expansion and (or) renewal of existing industries providing implementation by legal entity of investments in the amount of not less than five million of the monthly calculation index established by the Law on the Republican Budget and operating on the date of filing of the application for providing investment preferences in change of fixed assets, including updating (renovation, reconstruction, modernization) of the existing production capacities, producing products.

Investment priority project on creation of new productions or expansion and (or) updating of the operating productions is performed by legal entity on certain priority types of activities which list is approved by the Government of the Republic of Kazakhstan.

By a special investment project shall be understood an investment project implemented by legal entity of the Republic of Kazakhstan, registered as a participant of special economic area or owner of a free warehouse in accordance with the customs legislation of the Republic of Kazakhstan, and (or) acquired from a participant of special economic area or implemented by legal entity of the Republic of Kazakhstan, which concluded an agreement on industrial assembly of motor vehicles.

**Footnote. Article 284 as amended by the Law of the Republic of Kazakhstan dated December 25, 2017 No. 122-VI (effective from January 1, 2018); as amended by the Law of the Republic of Kazakhstan No. 243-VI dated 03.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 30.04.2021 No. 34-VII (shall be enforced from 01.01.2022).**

#### **Article 285. Procedure of investment preferences obtainment**

1. To obtain investment preferences, a legal entity of the Republic of Kazakhstan shall send to the authorized body for investments an application for the investment preferences provision and documents confirming the applicant's compliance with the requirements established by this Code in the form established by the authorized body for investments.

2. Investment preferences are provided on the basis of investment contract concluded between the authorized body for investments and the legal entity of the Republic of Kazakhstan implementing the investment project.

The Rules of investment preferences provision by the authorized body for investments on one stop-shop principle to investors, implementing an investment priority project, are approved by the Government of the Republic of Kazakhstan.

**3. Excluded by the Law of the Republic of Kazakhstan dated December 25, 2017 No. 122 -VI (effective from January 1, 2018).**

**Footnote. Article 285 as amended by the Law of the Republic of Kazakhstan dated December 25, 2017 No. 122-VI (effective from January 1, 2018).**

#### **Article 286. Conditions for investment preferences provision**

1. Investment preferences are provided for:

1) on investment project, investment priority project-legal entity of the Republic of Kazakhstan;

2) under a special investment project - a legal entity of the Republic of Kazakhstan operating as a participant in a special economic zone or an owner of a free warehouse, manufacturers of vehicles and (or) their components, as well as agricultural machinery and (or) its components - if there is an appropriate agreement about industrial assembly;

3) for an investment project - a legal entity that has concluded an investment agreement.

2. Is excluded by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication ).

3. Excluded by the Law of the Republic of Kazakhstan dated December 25, 2017 No. 122 -VI (effective from January 1, 2018).

4. Investment preferences shall be provided when a legal entity implements an investment project in accordance with subparagraph 1) of paragraph 1 of this Article for the types of activities included in the list of priority activities approved by the Government of the Republic of Kazakhstan.

Determination of priority types of activity shall be carried out in accordance with the general classifier of types of economic activity, approved by the authorized body in the field of technical regulation.

The list of priority activities determined for the implementation of investment priority projects shall not include the following types of activities:

1) activities in the field of gambling business;

2) activities in the field of subsoil use, with the exception of coal-bed methane extraction;

3) activities for the production of excisable goods, with the exception of production of petrochemical products, production, assembly (completing) of excisable goods, provided for in subparagraphs 5) and 6) of part one of Article 462 of the Code of the Republic of Kazakhstan "On Taxes and Other Obligatory Payments to the Budget" (Tax Code).

The list of priority types of activities, including the list of priority types of activities determined for the implementation of priority investment projects, may be reviewed no more than twice a year.

5. Investment preferences for the investment priority project are provided for if the following conditions are met:

1) the recipient is a legal entity of the Republic of Kazakhstan;

2) a legal entity shall make investments in the amount of at least two million times (for the creation of new industries) or five million times (for the expansion and (or) renewal of existing industries) the size of the monthly calculation index established by the law on the republican budget and valid on the date of filing an application for the provision of investment preferences.

When creating new objects of investment activity in the areas of food and light industry, the amount of investments of a legal entity is not less than a million times the monthly

calculation index established by the law on the republican budget and valid on the date of filing an application for investment preferences;

When creating facilities that can satisfy the needs of a tourist in priority tourist areas, the amount of investments of a legal entity is at least two hundred thousand times the monthly calculation index established by the law on the republican budget and valid on the date of filing an application for investment preferences;

3) Is excluded by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication ).

4) a legal entity is not:

an autonomous educational establishment in accordance with the tax legislation of the Republic of Kazakhstan and the legislation of the Republic of Kazakhstan on education;

an organization operating in the special economic area in accordance with the tax legislation of the Republic of Kazakhstan and the legislation of the Republic of Kazakhstan on special economic and industrial areas;

5) the share of the state and (or) a subject of the quasi-public sector - a legal entity of the Republic of Kazakhstan as a founder and (or) participant (shareholder) of a legal entity of the Republic of Kazakhstan does not exceed twenty-six percent, with the exception of a legal entity of the Republic of Kazakhstan in the engineering industry, including the production of a foundry products;

the share of the state and (or) a subject of the quasi-public sector - a legal entity of the Republic of Kazakhstan as a founder and (or) participant (shareholder) of a legal entity of the Republic of Kazakhstan in the engineering industry, including the production of foundry products, does not exceed fifty percent.

Participation of the state and (or) subject of the quasi-public sector - a legal entity of the Republic of Kazakhstan as a founder and (or) participant (shareholder) of a legal entity of the Republic of Kazakhstan is no more than five years from the date of registration of the investment contract, with the exception of priority investment projects in the engineering industry, including production of foundry products, where the participation of the state and (or) a subject of the quasi-public sector - a legal entity of the Republic of Kazakhstan as a founder and (or) participant (shareholder) of a legal entity of the Republic of Kazakhstan is not more than twenty years from the date of registration of the investment contract. Within five years, the state and (or) the subject of the quasi-public sector are obliged to withdraw from the founders and (or) participants (shareholders) of the legal entity of the Republic of Kazakhstan. If this condition is not met, the application of investment preferences shall be suspended until his (their) complete withdrawal from the founders and (or) participants (shareholders) of the legal entity of the Republic of Kazakhstan, but not more than one year.

Breach of condition of withdrawal from the founders and (or) participants (shareholders) of a legal entity of the Republic of Kazakhstan during the suspension period entails the early

termination of the investment contract and the return of previously granted investment preferences.

The provisions of this subparagraph do not apply when a quasi-state sector entity in which the share of the state and (or) quasi-state sector entity as the founder and (or) participant (shareholder) of the legal entity of the Republic of Kazakhstan is less than fifty percent, operates within the framework of the implementation of the investment priority project for the extraction of coal bed methane;

6) Is excluded by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication ).

7) investment activity is not carried out within the framework of a public-private partnership agreement, including public-private partnership agreement.

5-1. For the purposes of applying investment preferences for a special investment project in accordance with subparagraph 2) of paragraph 1 of this Article, a legal entity of the Republic of Kazakhstan must meet one of the following conditions:

1) a legal entity of the Republic of Kazakhstan shall be registered as a participant of special economic area in accordance with the legislation of the Republic of Kazakhstan on special economic and industrial areas;

2) legal entity of the Republic of Kazakhstan is registered as the owner of a free custom zone stock in accordance with the customs legislation of the Republic of Kazakhstan;

3) legal entity of the Republic of Kazakhstan has concluded an industrial assembly agreement of motor vehicles;

4) Is excluded by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication ).

6. The term of investment preferences application shall be established by this Code and other legislative acts of the Republic of Kazakhstan and specified in the investment contract for each type of investment preferences.

7. Investment preferences are provided for to the investor in the case of documents submission provided for by Article 292 of this Code, confirming the investor's compliance with the requirements.

8. Investment preferences application shall be carried out in accordance with this Code and other legislative acts of the Republic of Kazakhstan.

Footnote. Article 286 as amended by the laws of the Republic of Kazakhstan dated April 28, 2016 No. 506-V (effective upon expiry of sixty calendar days after the date of its first official publication); dated December 28, 2016 No. 34-VI (effective from January 1, 2017); dated December 25, 2017 No. 122-VI (effective from January 1, 2018); No. 243-VI dated 03.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar

days after the date of its first official publication); dated 02.01.2021 No. 399-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 30.04.2021 No. 34-VII (shall be enforced from 01.01.2022).

#### **Article 287. Exemption from customs duties**

1. Legal entity of the Republic of Kazakhstan, implementing an investment project within the framework of an investment contract, is exempt from customs duties when importing technological equipment, components and spare parts, raw materials and (or) materials in accordance with the legislation of the Republic of Kazakhstan.

Leasing company is exempt from customs duties when importing technological equipment supplied within the framework of the investment project on the basis of a financial lease agreement for the legal entity of the Republic of Kazakhstan implementing the investment project.

Technological equipment are understood as goods intended for use in the technological process of an investment project.

Components are understood as components that in the aggregate make up the structural integrity of the process equipment.

5) Raw materials and (or) materials – any mineral, component, detail or other goods used for finished product producing by means of technological process;

1-1. A legal entity of the Republic of Kazakhstan implementing a special investment project under a special investment contract shall be exempted from customs duties when importing technological equipment, components and spare parts for it in accordance with the legislation of the Republic of Kazakhstan.

Exemption from customs duties on used raw materials and (or) materials imported by legal entities of the Republic of Kazakhstan as part of the implementation of a special investment project on the basis of a special investment contract shall be carried out upon completion of the customs procedure of a free customs zone or free warehouse, provided that such raw materials and materials are identified in received product and recognition of the intended use of conditionally released goods.

2. Exemption from customs duties on imports of technological equipment and components is provided for investment contract period, but not more than five years from the date of registration of the investment contract.

3. Exemption from customs duty on import of spare parts for technological equipment for up to five years is provided for to legal entities of the Republic of Kazakhstan depending on the volume of investments in fixed assets and in case of compliance of the investment project with the list of priority activities approved by the Government of the Republic of Kazakhstan.

Exemption from customs duties on imports of raw materials and (or) materials is provided for a period of five years from the date of commissioning of fixed assets under the working program.

Exemption from customs duties is provided for the investment contract period, but not more than five years from the date of commissioning of fixed assets under the working program.

The working program is an annex to the investment contract, which determines the schedule of work on the implementation of the investment project before commissioning.

If the working program provides for the introduction of two or more fixed assets, the calculation of the period of exemption from customs duty on the import of spare parts for technological equipment, raw materials and (or) materials is carried out from the date when the first fixed asset under the working program is put into operation.

This paragraph shall not apply to the conditions of investment preferences provision for a special investment project.

3-1. Exemption from import customs duties in the framework of a special investment project is provided for:

1) the participants of the special economic zones in the fifteen-year period, but not longer than the validity period of the special economic zones;

2) owners of free custom zone stock for a period not exceeding fifteen years from the date of registration of the special investment contract;

3) legal entities of the Republic of Kazakhstan that have concluded an industrial assembly agreement of motor vehicles for a period not exceeding fifteen years from the date of registration of a special investment contract.

4. Notification of the decision taken in accordance with paragraph 2 of this Article shall be sent by the authorized body for investments within five working days to the customs authority.

**Footnote. Article 287 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (effective from January 1, 2017); dated December 25, 2017 No. 122-VI (effective from January 1, 2018); dated 30.12.2020 397-VI (shall be enforced upon expiry of six months after the date of its first official publication).**

#### **Article 288. Government grant-in-kind**

1. Government grant-in-kind are property that is the property of the Republic of Kazakhstan, transferred for temporary gratuitous use or provided on the right of temporary gratuitous land use to a legal entity of the Republic of Kazakhstan for the investment project implementation with subsequent gratuitous transfer of ownership or land use.

2. Government grant-in-kind in the order established by this Code shall be provided for by the authorized body for investments in coordination with the authorized body for state property management and (or) the Central authorized body for land resources management, as well as local Executive bodies for temporary gratuitous use or on the right of temporary gratuitous land use with subsequent gratuitous transfer to ownership or land use in case of investment obligations in accordance with the investment contract.

The basis for gratuitous transfer of the provided state natural grant in the property or land use shall be the decision of the competent authority on investments, which shall be made not later than three months from the date of receipt of the audit report, stipulating the fulfillment of investment obligations by the investor under the investment contract concluded between the investor and the competent authority on investments.

3. As the government grant-in-kind can be transferred: land, buildings, structures, machinery and equipment, computer equipment, measuring and regulating devices and facilities, vehicles (except auto cars), production and household equipment.

4. Evaluation of government grant-in-kind is carried out at their market value in the manner prescribed by the legislation of the Republic of Kazakhstan.

5. The maximum size of the government grant-in-kind is not more than thirty percent of the volume of investments in fixed assets of a legal entity of the Republic of Kazakhstan.

If the estimated value of the requested government grant-in-kind exceeds the specified maximum size, the legal entity of the Republic of Kazakhstan has the right to receive the requested property with payment of the difference between its estimated value and the maximum size of the government grant-in-kind.

**Footnote. Article 288 as amended by Law of the RK No. 87-VII of December 27, 2021 ( shall be put into effect ten calendar days after the date of its first official publication).**

### **Article 289. Guarantees of stability in case of amendment in the legislation of the Republic of Kazakhstan**

1. Legal entities implementing investment priority projects that comply with paragraph 5 of Article 286 of this Code, or implementing investment strategic projects under investment contracts concluded before January 1, 2015, or implementing an investment project under an investment agreement shall be guaranteed stability in the event of changes in:

1) the tax legislation of the Republic of Kazakhstan in accordance with the Code of the Republic of Kazakhstan "On Taxes and Other Obligatory Payments to the Budget" (Tax Code );

2) legislation of the Republic of Kazakhstan on migration of the population in the field of attracting foreign labor.

Exceptions to part one of this paragraph are the cases provided for in paragraph 4 of Article 295-2 of this Code.

2. Guarantee of stability application of the legislation of the Republic of Kazakhstan shall be canceled in case of early termination of the investment contract in the manner prescribed by this Code.

3. Legal entities that have concluded an agreement on investment obligations under Article 295-3 of this Code shall be guaranteed the stability of the tax legislation of the Republic of Kazakhstan under the Code of the Republic of Kazakhstan "On Taxes and Other Obligatory Payments to the Budget" (Tax Code) for a period of ten years.

Footnote. Article 289 as amended by the Law of the Republic of Kazakhstan dated 25.12.2017 No. 122-VI ( effective from January 1, 2018); dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 02.01.2021 No. 399-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 87-VII of 27.12.2021 (shall be effective on 01.01.2022); dated 30.12.2022 No. 177-VII (shall be enforced ten calendar days after the date of its first official publication); dated 20.04.2023 No. 226-VII (shall be enforced from 01.07.2023).

#### **Article 290. Tax preferences**

1. Tax preferences are provided for to legal entities of the Republic of Kazakhstan in the manner and on the terms provided by the tax legislation of the Republic of Kazakhstan.

2. Types of tax preferences:

1) for investment priority projects:

reduction of the amount of calculated corporate income tax by 100 percent;

the application of the coefficient 0 to the land tax rates;

calculation of property tax at the rate of 0 percent to the tax base;

2) for investment projects, except for investment priority projects-exemption from value added tax on imports of raw materials and (or) materials under the investment contract;

3) for special investment projects – exemption of import of raw materials and (or) materials under a special investment contract from value added tax in accordance with the tax legislation of the Republic of Kazakhstan.

3. Investment contract establishes the validity period of each type of tax preferences, but no more than the absolute deadline for their application, defined in accordance with the Code of the Republic of Kazakhstan "On Taxes and other Mandatory Payments to the Budget" (Tax Code).

4. Application of tax preferences shall be canceled in case of early termination of the investment contract in the manner prescribed by this Code.

Footnote. Article 290 as amended by the Law of the Republic of Kazakhstan dated December 25, 2017 No. 122-VI (effective from January 1, 2018).

#### **Article 291. Investment grant**

Footnote. Article 291 is excluded by the Law of the Republic of Kazakhstan dated 02.01.2021 No. 399-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

#### **Article 292. Requirements for the application for investment preferences**

1. Application for investment preferences provision is accepted and registered in the form established by the authorized body for investments, if available:

1) certificate of state registration (re-registration) of the legal entity;

2) the copies of the charter of the legal entity, certified by the signature of the head and seal of the legal entity.



If the legal entity shall be a private business entity, the documents affixing a seal shall not be required;

3) business plan of investment project, drawn up in accordance with the requirements established by the authorized body.

4) Excluded by the Law of the Republic of Kazakhstan dated December 25, 2017 No. 122-VI (effective from January 1, 2018).

5) documents confirming the size (cost) of the government grant-in-kind requested by the legal entity of the Republic of Kazakhstan and preliminary approvals of its provision;

6) was valid until 01.01.2017 in accordance with the Code of the Republic of Kazakhstan dated 29.10.2015 No. 375-V;

7) copies of the passport or identity document of the attracted foreign worker (with translation into the Kazakh or Russian), the employment contract concluded between the employer and the attracted foreign worker (with translation into the Kazakh or Russian), documents confirming his qualifications and (or ) education (with translation into the Kazakh or Russian).

In the case of implementation of an investment priority project in priority tourist areas, a letter from the central executive body exercising the functions of state administration in the field of tourism activities shall also be attached, confirming the implementation of the investment priority project in priority tourist areas.

1-1. An application for the provision of investment preferences within the framework of implementation of a special investment project shall be accepted and registered in the form and in the manner established by the authorized body, determined by the Government of the Republic of Kazakhstan for concluding a special investment contract.

2. If the application for the provision of investment preferences provides for the provision of tax preferences, the investor shall submit the conclusion of a comprehensive non-departmental expertise of construction projects, certified by the signature of the head, in the manner prescribed by the legislation of the Republic of Kazakhstan.

Footnote. Article 292 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (effective from January 1, 2017); dated December 25, 2017 No. 122-VI (effective from January 1, 2018); No. 241-VI dated 02.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 243-VI dated 03.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 295-VI dated 27.12.2019 (shall be enforced since 01.01.2020); dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 02.01.2021 No. 399-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 30.04.2021 No. 34-VII (shall be enforced from 01.01.2022).

**Article 293. Terms of application consideration for investment preferences provision**

1. Application for investment preferences provision shall be submitted for consideration to the authorized body for investments, which, in accordance with the requirements established by Articles 285 and 286 of this Code, shall make a decision within twenty working days from the date of registration of the application.

Order of application consideration for an investment preference provision in the form of an investment grant is determined by the rules for an investment grant provision.

2. Order of acceptance, registration and consideration of the application for investment preferences provision is determined by the authorized body for investments.

3. Provisions of this Article shall not apply to applications for investment preferences for a special investment project.

**Footnote. Article 293 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (effective from January 1, 2017); dated December 25, 2017 No . 122-VI(effective from January 1, 2018).**

#### **Article 294. Conclusion of an investment contract**

1. An investment contract is a contract for the implementation of an investment project, which provides for investments implementation and investment preferences provision.

2. Authorized body for investments within ten working days from the date of the decision investment preferences provision prepares for signing the investment contract taking into account provisions of the model-based contract.

Model-based contract is a standard contract approved by the Government of the Republic of Kazakhstan and used in the conclusion of investment contracts.

3. The investment contract is registered by the authorized body within 5 (five) working days from the date of signing and comes into force from the date of its registration.

Investment contract date is the date of its registration by the authorized body for investments.

4. Investment contract period is determined by the term of the investment preferences. Completion term of the working program shall be finished no later than nine months before the end of the investment contract.

In case of realization of the investment project by the legal entity of the Republic of Kazakhstan being concluded a financial leasing contract, the validity of the investment contract shall expire after nine months after the expiry of a financial leasing contract.

**Footnote. Article 294 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016No. 34-VI(effective from January 1, 2017).**

#### **Article 295. Terms of termination of the investment contract**

1. Investment preferences shall be terminated upon expiry of the investment contract or may be terminated before the expiry of such period in the manner prescribed by this Article.

2. Investment contract may be terminated before expiry:

- 1) by agreement of the parties;
- 2) unilaterally.

3. In case of non-performance or improper performance of obligations by the investor under the investment contract and in case of failure by the investor to submit documents justifying the possibility of further implementation of the investment project, the authorized body for investment shall terminate the investment contract unilaterally before the expiry of three months from the date of notification.

In case of the investment contract termination, the specified legal entity shall pay the amounts of taxes and customs duties not paid to the budget as a result of investment preferences provided under the investment contract.

4. In case of the investment contract early termination on the initiative of the legal entity of the Republic of Kazakhstan, which concluded the investment contract, the specified legal entity shall pay unilaterally the amount of taxes and customs duties not paid as a result of investment preferences provided for under the investment contract.

5. In case of early termination of the investment contract by agreement of the parties, the legal entity of the Republic of Kazakhstan, which concluded the investment contract, shall pay the amount of taxes and customs duties not paid as a result of investment preferences provided for under the investment contract.

6. In case of early termination of the investment contract, the legal entity of the Republic of Kazakhstan, which concluded the investment contract, returns the property in kind, provided to it as a state full-scale grant, or its initial cost on the date of transfer in accordance with the terms of the investment contract.

6-1. In case of termination of the investment contract, a legal entity of the Republic of Kazakhstan shall reimburse in full the amount of the investment grant paid under the investment contract.

7. The return of the state full-scale grant is carried out by the legal entity of the Republic of Kazakhstan, which concluded the investment contract, within thirty calendar days after decision making of the authorized body for investments on early termination of the investment contract.

**Footnote. Article 295 as amended by the Law of the Republic of Kazakhstan dated December 25, 2017 No. 122-VI (effective from January 1, 2018).**

#### **Article 295-1. Conclusion and termination of a special investment contract**

1. A special investment contract is a contract providing for the provision of investment preferences for a special investment project.

2. For the conclusion of special investment contracts, determined by the Government of the Republic of Kazakhstan, within fifteen working days from the date of receipt of the application for the provision of investment preferences for a special investment project, the authorized body shall prepare a special investment contract for signing, taking into account the provisions of a standard special investment contract approved by the authorized body for conclusion of special investment contracts, determined by the Government of the Republic of Kazakhstan.

3. The procedure and conditions for the conclusion and termination of a special investment contract shall be developed and approved by the authorized body for the conclusion of special investment contracts, determined by the Government of the Republic of Kazakhstan.

4. The term of the special investment contract is determined by the term of the investment preferences.

5. Upon early termination of a special investment contract by agreement of the parties, a legal entity of the Republic of Kazakhstan that has entered into a special investment contract shall not pay the amount of customs duties not paid as a result of investment preferences granted under a special investment contract.

**Footnote.** The Code is amended by adding Article 295-1 in accordance with the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (effective from January 1, 2017); as amended by the Law of the Republic of Kazakhstan No. 243-VI dated 03.04.2019 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 272-VI dated November 25, 2019 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

#### **Article 295-2. Investment agreement**

1. An investment agreement is an agreement for the implementation of an investment project concluded on the basis of a decision of the Government of the Republic of Kazakhstan between a person authorized by the Government of the Republic of Kazakhstan and a legal entity, including one registered in the jurisdiction of the Astana International Financial Center, providing for investments in the amount of at least seven and a half million-fold the monthly calculation index, established by the law on the republican budget and effective as of January 1 of the corresponding fiscal year.

The investment agreement defines the conditions and procedure for granting preferences and benefits provided for by the legislation of the Republic of Kazakhstan at the time of conclusion of the investment agreement, as well as establishes counter obligations for legal entities that have concluded an investment agreement.

Investment agreements cannot be concluded for the implementation of projects in the following types of activities:

1) activities related to the trafficking of narcotic drugs, psychotropic substances and precursors;

2) production and (or) wholesale of excisable products;

3) conducting a lottery;

4) gambling business activities;

5) activities related to the circulation of radioactive materials;

6) banking activities (or certain types of banking operations) and activities in the insurance market (except for the activities of an insurance agent);

7) audit activity;

- 8) professional activity in the securities market;
- 9) digital mining activities;
- 10) activities of credit bureaus;
- 11) security activities;
- 12) activities related to the circulation of civilian and service weapons and ammunition;
- 13) activities in the field of subsoil use, including the activities of gold miners;
- 14) the sale of minerals, including the activities of traders, activities for the sale of coal, oil.

2. The term, procedure and conditions for the amendment and termination of the investment agreement are set out in the rules for the conclusion, amendment and termination of investment agreements approved by the authorized investment authority.

3. The provisions of the investment agreement shall remain in effect for twenty-five years from the date of its conclusion in the event of changes in the legislation of the Republic of Kazakhstan, with the exception of those provisions that arise from international treaties ratified by the Republic of Kazakhstan, as well as cases of amendments to the investment agreement by agreement of the parties.

**Footnote. The Code is supplemented by Article 295-2 in accordance with the Law of the Republic of Kazakhstan dated 02.01.2021 No. 399-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 30.12.2022 No. 177-VII (shall be enforced ten calendar days after the date of its first official publication).**

### **Article 295-3. Agreement on investment obligations**

1. An agreement on investment obligations is an agreement concluded between the Government of the Republic of Kazakhstan and a legal entity that provides for the obligations of a legal entity to finance the capitalized subsequent expenses and (or) expenses for the acquisition, production, construction of new fixed assets, as well as to finance other costs that increase the value of fixed assets in accordance with international financial reporting standards and (or) the requirements of the legislation of the Republic of Kazakhstan on accounting and financial reporting, within eight years, including the year of filing an application for the conclusion of such an agreement, in total in the amount of at least seventy-five million times the monthly calculation index established by the law on the republican budget and effective on January 1 of the year in which the application for its conclusion was submitted.

In case of conclusion of an agreement on investment obligations with a legal entity engaged in activities in the field of extraction and (or) processing of solid minerals, such an agreement is concluded exclusively for activities in the field of extraction and (or) processing of solid minerals.

2. An agreement on investment obligations is concluded with a legal entity that simultaneously meets the following conditions:

1) a legal entity is a commodity producer, with the exception of subsoil users extracting hydrocarbon minerals and producers of petroleum products. For the purposes of this article, a commodity producer is a legal entity whose at least seventy percent of the total annual income for the year preceding the year of filing an application for an agreement on investment obligations is the income from the sale of goods of its own production or from the sale of minerals extracted by such a person and (or) products obtained as a result of processing of minerals by such a person;

2) a legal entity is a subject of large or medium-sized entrepreneurship in accordance with this Code;

3) does not carry out activities for the production of excisable goods;

4) does not apply special tax regimes.

3. A legal entity having entered into an agreement on investment commitments shall fulfill the obligations stipulated in part one of paragraph 1 hereof, pursuant to the schedule of investments, being an annex to the agreement on investment commitments.

At the same time, financing of at least fifty percent of the amount provided for in part one of paragraph 1 of this article must be carried out within the first four years, including the year of filing an application for an agreement on investment obligations.

In case the legal entity that entered into the Investment Obligations Agreement exercises the obligations stipulated in part one of paragraph 1 hereof:

1) the value of goods, works and services under contracts concluded with an interrelated party shall be accounted for in the amount of expenses actually incurred, but not exceeding fifty percent of the amount of obligations stipulated by part one of paragraph one hereof;

2) when entering into contracts for the purchase of goods, works and services, the cost thereof is accounted for in the amount of actual expenses incurred, with an interrelated party, such interrelated party must be a resident of the Republic of Kazakhstan.

4. Within the term of the agreement on investment obligations, starting from the second year from the date of its conclusion, a legal entity, not being a subsoil user, must also annually finance the training of Kazakhstani personnel in an amount of at least twenty thousand-fold of the monthly calculation index established by the law on the national budget and effective as of January 1 of the year when such financing is made.

A legal entity being a subsoil user shall finance the expenses specified in part one of this paragraph as required by the legislation of the Republic of Kazakhstan on subsoil and subsoil use.

5. An application to conclude an agreement on investment commitments shall be filed with the competent authority for investments.

A competent authority on investments within twenty working days from the date of receipt of the application for the conclusion of the agreement on investment obligations shall

prepare a draft decree of the Government of the Republic of Kazakhstan for the signing of such agreement.

A competent authority on investments shall elaborate the procedure for conclusion, amendments, termination of the agreement on investment commitments and a standard form of the agreement on investment commitments to be approved by the Government of the Republic of Kazakhstan.

6. The agreement on investment obligations may be amended only in terms of changing the investment schedule, subject to the preservation of the provisions set forth in the second part of paragraph 3 hereof.

7. Conclusion of the agreement on investment obligations shall not impede the conclusion of investment contracts for the provision of investment preferences in compliance with the requirements established by this Code. Herewith the preferences for taxes shall be granted under this Code and the Code of the Republic of Kazakhstan “On Taxes and Other Obligatory Payments to the Budget”(Tax Code) in force at the time of conclusion of an agreement on investment obligations.

8. The agreement on investment obligations before the expiration of the term specified in Article 289, paragraph 3 of this Code may be terminated by agreement between the parties or unilaterally in compliance with this paragraph.

In the event of failure to perform the obligations and conditions provided for by part one of paragraph one, paragraph two, part two of paragraph three and paragraph four hereof, during the term of the investment commitment agreement, the Government of the Republic of Kazakhstan shall terminate the agreement on investment commitments unilaterally upon expiration of a three-month period from the date of notification.

In the event of early termination of the agreement on investment obligations, the legal entity that concluded such an agreement shall recalculate its tax obligations pursuant to the procedure established by the Code of the Republic of Kazakhstan “On Taxes and Other Obligatory Payments to the Budget” (the Tax Code).

**Footnote. Chapter 25 as supplemented by Article 295-3 under Law of the RK No. 87-VII of December 27, 2021 (shall be effective on January 1, 2022); as amended by the Laws of the Republic of Kazakhstan dated 12/30/2022 No. 177-VII (shall be enforced ten calendar days after the date of its first official publication).**

#### **Article 296. Investment disputes settlement**

1. An investment dispute is a dispute arising from contractual obligations between investors, including large investors, and government authorities in connection with the investor's investment activities.

2. Investment disputes are resolved through negotiations or in accordance with the previously agreed dispute resolution procedure.

3. If it is impossible to resolve investment disputes in accordance with the provisions of paragraph 2 of this Article, disputes shall be settled in accordance with the treaties and

legislative acts of the Republic of Kazakhstan in the courts of the Republic of Kazakhstan, as well as in arbitration determined by the agreement of the parties.

4. Disputes, not related to investment disputes, shall be resolved in accordance with the legislation of the Republic of Kazakhstan.

**Footnote. Article 296 as amended by the Law of the Republic of Kazakhstan dated April 8 , 2016 No. 489-V (effective upon expiry of ten calendar days after the date of its first official publication).**

#### **Article 296-1. Forms of control over compliance with the terms of investment contracts**

Control over compliance with the terms of investment contracts shall be carried out by the authorized body for investments in the following forms:

1) desk audit, carried out on the basis of study and analysis of reports submitted in accordance with paragraph 1 of Article 296-2 of this Code;

2) visits to the object of investment activity, including the consideration of documents for the execution of the work program and conditions of the investment contract.

**Footnote. Paragraph 2 is supplemented by Article 296-1 in accordance with the Law of the Republic of Kazakhstan dated 29.06. 2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

#### **Article 296-2. The procedure for organizing and exercising control over compliance with the terms of investment contracts**

1. After the conclusion of the investment contract, a legal entity of the Republic of Kazakhstan shall submit semi-annual reports on implementation of the investment contract no later than July 25 and January 25 with a breakdown by cost items provided for by the work program, with attachment of documents confirming the entry into operation of fixed assets, supply and use of spare parts for process equipment, raw materials and (or) materials in the form established by the authorized body for investments.

2. Amendments to the annexes of the investment contract and the special investment contract may be made by an agreement of the parties twice a year.

3. An audit with a visit to the object of investment activity shall be carried out within six months after the commissioning of fixed assets, subject to completion of the work program.

4. Based on the results of the audit, the representative of the authorized body for investments and the head of a legal entity of the Republic of Kazakhstan that has concluded the investment contract shall sign an act of the current state of execution of the work program of the investment contract in the form established by the authorized body for investments.

5. In case of non-fulfilment or improper fulfilment of the work program of the investment contract, the authorized body for investments shall send a written notification to the legal entity of the Republic of Kazakhstan that has concluded the investment contract indicating violations and set a three-month period for eliminating violations.

6. In the event that, based on the results of an audit conducted by the authorized body for investments, it is established that the technological equipment, components, spare parts for it,



raw materials and (or) materials imported for the implementation of the investment project and exempted from customs duties were not put into operation or were not used, a legal entity of the Republic of Kazakhstan that did not pay the amount of customs duties due to the investment preferences granted under the investment contract shall pay them in terms of unused equipment, components, spare parts for it, raw materials and (or) materials with the accrual of penalties in the manner established by the legislation of the Republic of Kazakhstan.

7. After completion of implementation of the work program, a legal entity of the Republic of Kazakhstan that has concluded an investment contract shall submit an audit report to the authorized investment body within two months, which must contain:

- 1) information on fulfilment of investment obligations in accordance with the work program;
- 2) a breakdown of fixed assets acquired in accordance with the work program;
- 3) a consolidated register of documents confirming implementation of the work program;
- 4) information on fulfilment of conditions of the investment contract.

If the investment contract provides for the provision of an investment subsidy, the legal entity of the Republic of Kazakhstan that has concluded the investment contract shall submit an audit report of an audit organization that meets the minimum requirements established by the authorized body in the field of auditing to the authorized body within two months.

8. Information on termination of the investment contract in order to ensure the protection of economic interests of the state shall be sent to:

- 1) the state revenue bodies and, if necessary, to other state bodies for taking appropriate measures;
- 2) the state revenue bodies, the authorized body for state property management and (or) the central authorized body for land management, as well as local executive bodies under investment contracts, according to which a state in-kind grant is provided.

9. A legal entity of the Republic of Kazakhstan that has concluded an investment contract, during the validity of the investment contract shall not have the right to:

- 1) change the intended purpose of the provided state in-kind grant, as well as property acquired in accordance with the work program;
- 2) alienate the provided state in-kind grant, as well as property acquired in accordance with the work program.

10. Control over the intended use of objects exempted from customs duties shall be carried out in the manner determined by the Eurasian Economic Commission.

**Footnote. Paragraph 2 is supplemented by Article 296-2 in accordance with the Law of the Republic of Kazakhstan dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

## **Chapter 26. SPECIAL PROTECTIVE, ANTI-DUMPING AND COUNTERVAILING MEASURES IN RELATION TO THIRD COUNTRIES**

### **Article 297. General provisions on the introduction of measures to protect the domestic market**

1. In order to protect the economic interests of the Republic of Kazakhstan, measures may be introduced to protect the domestic market in respect of goods originating from third countries and imported into the customs territory of the Eurasian Economic Union in the form of special, protective, anti-dumping and countervailing measures.

Third countries are understood as countries and (or) associations of countries that are not parties to the Treaty on the Eurasian Economic Union, as well as territories included in the world classification approved by the Eurasian Economic Commission.

2. Decisions on the introduction and application, revision or cancellation of special, protective, anti-dumping or countervailing measures or non-application of the relevant measure shall be taken by the Eurasian Economic Commission.

Special, protective, anti-dumping and countervailing measures application, investigation prior to the application of special protective, anti-dumping and countervailing measures are regulated by the Law of the Republic of Kazakhstan "On special, protective, anti-dumping and countervailing measures in relation to third countries".

### **Article 298. Types of measures**

1. A special, protective measure is a measure to limit the increased import of goods into the customs territory of the Eurasian Economic Union, which is applied by the decision of the Eurasian Economic Commission through the introduction of an import quota, a special quota or a special duty, including a preliminary special duty.

2. An anti-dumping measure is a measure to counteract dumping imports, which is applied by the decision of the Eurasian Economic Commission through the introduction of an anti-dumping duty, including a preliminary anti-dumping duty, or the approval of price commitments made by the exporter.

3. A compensatory measure is a measure to neutralize the impact of a specific subsidy of the exporting third country on the economic sector of the member-states, applied by the decision of the Eurasian Economic Commission through the introduction of a compensation fee (including a preliminary compensation fee) or approval of voluntary commitments made by the authorized body of the subsidizing third country or exporter.

### **Article 299. Principles of special protective, anti-dumping and countervailing measures application**

A special protective measure may be applied to the goods if, as a result of the investigation, it is established that the import of the goods into the customs territory of the Eurasian Economic Union is carried out in such increased quantities (in absolute or relative terms to the total volume of production in the member-states of similar or directly competing

goods) and on such conditions that it causes serious damage to the branch of the economy of the member-states or creates a threat of causing such damage.

An anti-dumping measure shall be applied to the goods that are the subject of dumping imports if, as a result of an investigation conducted by the body conducting the investigation, it is established that the import of such goods into the customs territory of the Eurasian Economic Union causes material damage to the branch of the economy of the member-states, creates a threat of causing such damage or significantly slows down the creation of the branch of the economy of the member-states.

Compensatory measure may be applied to the imported goods, in the production, export or transportation of which a specific subsidy of the exporting third country was used, if, according to the results of the investigation conducted by the body conducting the investigation, it is established that the import of such goods to the customs territory of the Eurasian Economic Union causes material damage to the branch of the economy of the member-states, creates a threat of causing such damage or significantly slows down the creation of the branch of the economy of the member-states.

Member States are understood as States that are members of the Eurasian Economic Union and Parties to the Treaty on the Eurasian Economic Union.

## **SECTION 6. PROTECTION FORMS AND REMEDIES OF BUSINESS ENTITIES**

### **Chapter 27. PROTECTION OF BUSINESS ENTITIES RIGHTS**

#### **Article 300. Protection forms of business entities rights**

1. Every business entity has the right to judicial protection of its rights, freedoms and legitimate interests.

Protection of violated or disputed rights of business entities may be carried out in a different manner provided for by the laws of the Republic of Kazakhstan (arbitration, mediation, Business Rights Commissioner of Kazakhstan, Ombudsman, negotiations, claims procedure and others).

2. Business entities rights protection may be carried out by appealing the actions (inaction) of officials and acts (decisions) of state bodies in cases provided for by this Code and the laws of the Republic of Kazakhstan.

3. In cases specifically provided for by law, the rights protection of business entities may be carried out by direct actual or legal actions of the business entity whose right is violated (self-defense).

#### **Article 301. Judicial form of defence**

Business entities shall have the right to apply to the court for the protection of violated or disputed rights, freedoms or legitimate interests in the manner prescribed by the laws of the Republic of Kazakhstan,

**Footnote. Article 301 is in the wording of the Law of the Republic of Kazakhstan dated 29.06.2020 No. 351-VI (shall be enforced from 01.07.2021).**

### **Article 302. Pre-trial disputes settlement, the parties of which are business entities**

1. Business entities, whose rights and legitimate interests have been violated, in order to directly resolve the dispute with the violator of these rights, apply to him with a written claim in the manner prescribed by the laws of the Republic of Kazakhstan.

2. In cases, established by the laws of the Republic of Kazakhstan, when compliance with the pre-trial dispute settlement procedure is optional, the business entity has the right to apply directly to the court for the protection of its violated right.

3. In case of non-settlement of disputes in the pre-trial procedure, business entities shall have the right to apply to the court in the manner established by the laws of the Republic of Kazakhstan.

**Footnote. Article 302 as amended by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 351-VI (shall be enforced from 01.07.2021).**

### **Article 303. Amicable protection forms**

1. Protection of the rights of business entities may be carried out in the following forms provided for by the laws of the Republic of Kazakhstan and (or) the contract:

- 1) in arbitration;
- 2) through the mediation;
- 3) in the manner of the participatory procedure.

2. Other non-judicial protection forms of the rights of business entities in cases provided for by the laws of the Republic of Kazakhstan, may be established.

3. In order to enforce the rights and legitimate interests of business entities, disputes settlement arising in the course of business activities, business entities have the right to apply to the Business Rights Commissioner of Kazakhstan, the Ombudsman in cases provided for by this Code and other laws of the Republic of Kazakhstan.

### **Article 304. Protection of rights in arbitration**

1. Unless otherwise provided by the laws of the Republic of Kazakhstan, a dispute arising from civil law relations may be considered in arbitration in the manner provided by the laws of the Republic of Kazakhstan, in the presence of an arbitration agreement.

2. To resolve a dispute, arbitrations may be established in the form of permanent arbitral institution or arbitration to resolve a certain dispute.

3. Organization and procedure for the activities of permanent arbitrations shall be established by their rules and laws of the Republic of Kazakhstan, treaties of the Republic of Kazakhstan.

4. If other requirements to the organization and arbitration standard operating procedures, created for resolution of a specific dispute, are not established by the law and treaties of the Republic of Kazakhstan, they are determined by the agreement of the parties.

5. If the arbitral award is not executed voluntarily within the period established in it, it shall be subject to enforcement in the manner provided by the Civil Procedure Code of the Republic of Kazakhstan.

Footnote. Article 304 as amended by the Law of the Republic of Kazakhstan dated April 8 , 2016No. 489-V (effective upon expiry of ten calendar days after the date of its first official publication).

#### **Article 305. Protection of the rights through procedure application of the mediation**

1. Mediation between business entities is carried out by mutual agreement of the parties and at the conclusion of a mediation agreement between them.

2. Mediation in the disputes settlement arising from civil and other legal relations with the participation of business entities can be applied both before initiation of legal action and after the claim acceptance by the court.

3. General terms and conditions of mediation are provided by the law of the Republic of Kazakhstan "On mediation".

#### **Article 306. Protection of rights in the participative procedure**

1. Business entities have the right to conclude an agreement on the dispute settlement in the form of a participatory procedure.

2. Participative procedure shall be conducted without the participation of a judge by means of negotiations between the parties, with the assistance of the dispute adjustment by the lawyers of both parties.

3. General terms and conditions of the participatory procedure are regulated by the Civil Procedure Code of the Republic of Kazakhstan.

### **Chapter 28. BUSINESS RIGHTS COMMISSIONER OF KAZAKHSTAN INVESTMENT OMBUDSMAN**

#### **Paragraph 1. Legal status of Business Rights Commissioner of Kazakhstan**

#### **Article 307. Concept of Business Rights Commissioner of Kazakhstan**

1. Business Rights Commissioner of Kazakhstan is a person appointed to the post by the Order of the President of the Republic of Kazakhstan in order to represent, ensure and protect the rights and legitimate interests of business entities in state bodies, as well as to protect the interests of the business community.

Business Rights Commissioner of Kazakhstan is accountable to the President of the Republic of Kazakhstan.

2. No one has the right to impose on the Business Rights Commissioner of Kazakhstan functions not provided for by this Code. Any illegal interference in the activities of the Business Rights Commissioner of Kazakhstan is not allowed.

3. For the period of implementation of its powers, Business Rights Commissioner of Kazakhstan suspends its membership in political parties and other public associations.

4. Business Rights Commissioner of Kazakhstan has no right to engage in political activities.

5. Business Rights Commissioner of Kazakhstan in accordance with the established procedure within a month after taking office is obliged to transfer to the trust management the

shares in his ownership, shares (shares), shares of the authorized capital of commercial organizations and other property, the use of which entails the receipt of income, except for money legally owned by this person, as well as property transferred to the property lease. Business Rights Commissioner of Kazakhstan may not transfer to the trust management of the bonds belonging to him, shares of open and interval mutual investment funds, and also has the right to receive income from the property transferred to the trust management and has the right to transfer to the property rental housing.

6. Business Rights Commissioner of Kazakhstan may not hold paid positions in other organizations, except for teaching, research or other creative activities.

#### **Article 308. Basics of Business Rights Commissioner of Kazakhstan activities**

Business Rights Commissioner of Kazakhstan activities is based on:

- 1) legitimacy;
- 2) priority of protection of business entities rights and legitimate interests;
- 3) objectivity;
- 4) publicity.

#### **Article 309. Duties of Business Rights Commissioner of Kazakhstan**

Business Rights Commissioner of Kazakhstan in order to represent, ensure and protect the rights and legitimate interests of business entities, as well as to protect the interests of the business community:

1) shall represent, ensure, protect the rights and legitimate interests of business entities in state bodies and other organizations of the Republic of Kazakhstan, as well as international organizations and foreign states;

2) shall consider applications of business entities;

3) shall make proposals to the state bodies on the protection of the rights of business entities, as well as recommendations on the suspension of subordinate regulatory legal acts;

3-1) shall submit proposals to the competent authority on entrepreneurship to repeal or revise existing regulatory instruments and (or) requirements on complaints of business entities pursuant to paragraph 3 of Article 82 of this Code;

4) shall send to the state bodies (officials), actions (inaction) having violated the rights and legitimate interests of business entities, recommendations on measures to restore the violated rights, including the involvement of persons guilty of business entities rights and legitimate interests violation, to responsibility;

5) shall send applications to the Prosecutor's office in case of disagreement with the opinion of state bodies in order to further restore violated business rights;

6) shall submit applications to the President of the Republic of Kazakhstan in case of occurrence of facts of business rights systematic violation and impossibility of their resolution at the level of state bodies;

7) shall request from the state bodies (officials) the information, documents and materials relating to the rights and obligations of business entities, with the exception of information constituting a state, commercial, bank and other secret protected by the law;

8) shall apply to the court with a claim (application) in accordance with the legislation of the Republic of Kazakhstan;

9) shall take other legal measures aimed at restoring the violated rights and legitimate interests of business entities.

**Footnote. Article 309 as amended by Law of the RK No. 95-VII of December 30, 2021 ( shall be put into effect ten calendar days after its first official publication).**

### **Article 310. Obligations of Business Rights Commissioner of Kazakhstan**

1. In carrying out activities, the Business Rights Commissioner of Kazakhstan is obliged:

1) to comply with the Constitution and legislation of the Republic of Kazakhstan;

2) to take measures to ensure the observance and protection of the rights and legitimate interests of business entities;

3) to be objective and impartial when considering applications;

4) not to take any actions that impedes the exercise of the rights of a person seeking protection.

2. Business Rights Commissioner of Kazakhstan annually submits to the President of the Republic of Kazakhstan a report on the results of the work done to protect the business rights, which is placed in the mass media.

### **Article 311. Order of applications consideration by the Business Rights Commissioner of Kazakhstan**

1. Business Rights Commissioner of Kazakhstan within its competence:

1) shall consider applications of business entities (hereinafter – the applicant), except for applications:

which have not been previously considered by the state bodies within their competence; on the facts of applicant's rights violation by other private business entities;

2) shall inform the applicants about the direction of their applications to the authorized state bodies and organizations;

3) shall inform applicants on results of consideration of their references and taken measures;

2. Business Rights Commissioner of Kazakhstan within ten calendar days shall consider applications of applicants for compliance with the requirements set out in subparagraph 1) of paragraph 1 of this Article, in case of failure to comply with which leaves the application without consideration, as shall notify the applicant in writing form.

3. Applications of applicants, received by the Business Rights Commissioner of Kazakhstan, shall be considered within thirty calendar days.

4. If necessary, the period of applications consideration received by the Business Rights Commissioner of Kazakhstan, shall be extended with the obligatory notification of the applicant about the work.

5. As a result of consideration, the applicant is provided for with a response on the merits of the application within the competence of the Business Rights Commissioner of Kazakhstan

6. Procedure for extending the terms of appeals consideration, sending to the authorized state bodies and organizations, informing applicants about the course of appeals consideration is established by the Business Rights Commissioner of Kazakhstan.

**Article 312. Appointment and dismissal of the Business Rights Commissioner of Kazakhstan**

1. Person appointed to the position of the Business Rights Commissioner of Kazakhstan shall meet the following requirements:

- 1) have citizenship of the Republic of Kazakhstan;
- 2) have higher education;
- 3) have at least five years of experience in protection of the rights and legitimate interests of entrepreneurs.

2. Business Rights Commissioner of Kazakhstan is appointed by Order of the President of the Republic of Kazakhstan for a period of four years.

3. Business Rights Commissioner of Kazakhstan may be dismiss from office early by the decision of the President of the Republic of Kazakhstan on the following grounds:

- 1) voluntary;
- 2) health reasons preventing further execution of professional duties according to the medical report;
- 3) failure to comply with the obligations and restrictions established by this Code;
- 4) violation of official duties, commission of misdeeds inconsistent with the position held;
- 5) departure for permanent residence outside the Republic of Kazakhstan.

4. Powers of Business Rights Commissioner of Kazakhstan shall be terminated in the following cases:

1) termination of citizenship of the Republic of Kazakhstan by the Business Rights Commissioner of Kazakhstan;

2) Entry of court decision into legal force on the recognition of the Business Rights Commissioner of Kazakhstan as incapable or partially capable or on the application of compulsory medical measures to him;

3) Entry of condemnatory judgement into legal force concerning Business Rights Commissioner of Kazakhstan;

4) Death of Business Rights Commissioner of Kazakhstan or entry of court decision into legal force to declare him dead.

5. The same person may not be appointed to the position of Business Rights Commissioner of Kazakhstan more than two consecutive times.



### **Article 313. Basics of Business Rights Commissioner of Kazakhstan activities**

Business Rights Commissioner of Kazakhstan activities is provided by the National Chamber.

### **Paragraph 2. Investment Ombudsman legal status**

#### **Article 314. Investment Ombudsmen**

1. Investment Ombudsman is an officer appointed (assigned) by the Government of the Republic of Kazakhstan, who is entrusted with the functions of assistance in protecting the rights and legitimate interests of investors;

2. Investment ombudsman shall carry out his activities in compliance with the Constitution of the Republic of Kazakhstan, the laws of the Republic of Kazakhstan, the Acts of the President and the Government of the Republic of Kazakhstan and other regulations, as well as these Regulations.

#### **Article 315. Duties of Investment Ombudsmen**

1. In order to ensure and protect the rights and legitimate interests of investors, Investment Ombudsman:

1) shall consider investors' appeals on issues arising in the course of investment activities in the Republic of Kazakhstan, and make recommendations for their resolution, including interacting with state bodies;

2) shall provide assistance to investors in resolving emerging issues out-of-court and pre-court procedures;

3) shall develop and submit to the Government of the Republic of Kazakhstan recommendations on improving the legislation of the Republic of Kazakhstan on investment activities.

2. Investment Ombudsman recommendations are issued in the form of letters and minutes of meetings with Investment Ombudsman.

3. Investment Ombudsman shall conduct consultations with state bodies and organizations and scheduled meeting to resolve issues of investors arising out-of-court and pre-court procedures.

4. Investment Ombudsman, in the event that investor's issues cannot be resolved in accordance with the applicable legislation, shall develop and make recommendations on legislation improvement of the Republic of Kazakhstan, and directs them to the Government of the Republic of Kazakhstan.

#### **Article 316. 3. Rights and obligations of Investment Ombudsman**

1. The Investment Ombudsman has the right:

1) to request and receive from state bodies and organizations, regardless of the form of ownership, the information necessary for the consideration of applications, except for information constituting a commercial secret;

2) for immediate reception by Chiefs and other officials of state bodies and organizations;

3) to hear the Chiefs of interested state bodies and organizations or their Deputies on the applications of investors;

4) other rights necessary for the implementation of the functions assigned to the Investment Ombudsman.

2. In carrying out the activities, the Investment Ombudsman is obliged:

1) to take measures to ensure the observance and protection of the rights and legitimate interests of investors;

2) to consider in the order and terms established by the legislation of the Republic of Kazakhstan, applications of investors on the actions (inaction) of officials, decisions of state bodies, other organizations and their officials, as well as take the necessary measures on them

;

3) to be objective and impartial when considering applications;

4) not to take any actions that impedes the exercise of the rights of a person seeking protection.

#### **Article 317. Organization of Investment Ombudsman activities**

Investment Ombudsman activities is ensured by an authorized authority for investment.

Regulations on the Investment Ombudsman activities shall be approved by the Government of the Republic of Kazakhstan.

### **Chapter 29. APPEAL AGAINST DECISIONS, ACTIONS (INACTION) OF STATE BODIES AND OFFICIALS**

#### **Article 318. Obligation to consider the complaint of business entities**

Complaints filed in the manner prescribed by the laws of the Republic of Kazakhstan shall be subject to mandatory acceptance, registration and consideration. Refusal to accept complaint is prohibited.

State body (state body official) is obliged to consider the complaint filed by the business entity in the order and terms established by the laws of the Republic of Kazakhstan.

#### **Article 319. Leave to appeal**

1. Decisions, actions (inaction) of state bodies and officials may be appealed in the manner prescribed by the laws of the Republic of Kazakhstan by business entities, if they affect their rights and legitimate interests.

2. The complaint shall be filed with the state body, whose competence includes its consideration and adoption of a decision on it. A complaint shall be filed in the manner prescribed by the laws of the Republic of Kazakhstan.

**Footnote. Article 319 as amended by the Law of the Republic of Kazakhstan dated 29.06.2020 No. 351-VI (shall be enforced 01.07.2021).**

### **SECTION 7. RESPONSIBILITY FOR VIOLATION OF THE LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN IN ENTREPRENEURSHIP. TRANSITORY AND FINAL**

## **PROVISIONS**

### **Chapter 30. RESPONSIBILITY FOR VIOLATION OF THE LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN IN ENTREPRENEURSHIP**

#### **Article 320. Responsibility for violation of the legislation of the Republic of Kazakhstan in entrepreneurship**

1. Violation of the legislation of the Republic of Kazakhstan in entrepreneurship shall entail liability established by the laws of the Republic of Kazakhstan.

2. State bodies and their officials shall bear the responsibility established by the laws of the Republic of Kazakhstan for the illegal distribution and (or) use of information constituting a commercial secret, and the damage caused to a business entity as a result of such distribution and (or) use, shall be refundable in accordance with the civil laws of the Republic of Kazakhstan.

3. Obstruction of legal business activity shall entail liability established by the laws of the Republic of Kazakhstan.

4. All losses incurred by a business entity as a result of obstruction of its legitimate business activity shall be refundable to compensation in accordance with the civil laws of the Republic of Kazakhstan.

#### **Article 321. Responsibility of state bodies and their officials for non-performance or improper performance of their official duties**

1. State bodies and their officials in case of non-performance or improper performance of their duties in the process of interaction of business entities and the state, including the state regulation and support of entrepreneurship, as well as in case of illegal actions (inaction) shall be liable, established by the laws of the Republic of Kazakhstan.

2. State bodies are obliged to inform in writing form the business entity, whose rights and legitimate interests have been violated, about the measures taken against the state bodies officials responsible for the violation of the legislation of the Republic of Kazakhstan within one month.

#### **Article 322. Responsibility for violation of the established order of the business entity inspection**

1. Illegal actions of state bodies officials during inspections entail liability established by the laws of the Republic of Kazakhstan.

2. Damage caused to a business entity by a state body or its official in the implementation of state control and supervision shall be subject to compensation in accordance with the civil laws of the Republic of Kazakhstan.

The amount of damages for compensation, including the amount of remuneration paid to employees of business entities for the preparation of inspection materials, wages for the time

of production forced stop, lost profits that would have received the business entity in the implementation of the relevant goods, works, services not released as a result of production suspension.

## **Chapter 31. TRANSITORY AND FINAL PROVISIONS**

### **Article 323. Application procedure of certain provisions of this Code**

1. Benefits, provided for on the basis of investment contracts concluded with the authorized body for investments prior to the enactment of the Law of the Republic of Kazakhstan dated January 8, 2003 "On investments", shall remain in force until the expiration of the period established in these investment contracts.

2. The norms of paragraphs 3, 4 and 5 of Article 295, paragraph 1 of Article 296-2 of this Code regarding the payment of taxes remain valid for investment contracts concluded with the authorized investment body until January 1, 2009.

3. Provisions of paragraph 1 of Article 287 of this Code in terms of exemption from import customs duties of leasing companies apply to investment contracts concluded with the authorized body for investments from October 1, 2016.

**Footnote. Article 323 as amended by the Law of the Republic of Kazakhstan dated December 28, 2016 No. 34-VI (effective from January 1, 2017); dated 29.06.2020 No. 352-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

### **Article 324. Procedure for Entry into Force of this Code**

1. This Code shall be enforced since January 1, 2016 as excluded:

1) sub-paragraph 2) of the second part of paragraph 2 of Article 36 and sub-paragraph 5) of paragraph 2 of Article 38 of this Code, which shall enter into force on February 6, 2016;

2) part two of paragraph 4 of Article 193 of this Code, which shall enter into force on March 1, 2016;

3) the title of Article 211 of the table of contents, article 211, sub-paragraph 2) of paragraph 2 of Article 290 of this Code, which shall enter into force on 1 January 2017;

4) sub-paragraph 19) of paragraph 2 of Article 3, Article 22, paragraph 2 of Article 58, Article 62, sub-paragraph 5 of the third part of paragraph 2 of Article 80 and sub-paragraph 4) of paragraph 2 of Article 82 of this Code, which shall enter into force after the enactment of the legislative act on self-regulation;

5) provisions of the third part of paragraph 1 of Article 65, Article 66 of this Code in terms of expert opinions on the concepts of draft laws affecting the interests of business entities shall enter into force after the enactment of the legislative act on legal acts;

6) sub-paragraph 11) of Article 138 of this Code, which shall enter into force after the enactment of the legislative act on the organic products production.

2. Establish that headings of Articles 173 and 197 of the table of contents, sub-paragraphs 9), 13) and 14) of Article 88, sub-paragraph 4) of paragraph 3 of Article 116, sub-paragraph

68) of Article 138, Article 173, sub-paragraph 3) of Article 195, sub-paragraph 2) of paragraph 6 of Article 196, Article 197, sub-paragraph 6) of paragraph 1 of Article 292 of this Code is valid till January 1, 2017.

3. Establish that the heading of Article 119 of the table of contents of this Code till January 1, 2017 is amended read as follows:

"Article 119. Pricing for goods, works, services produced and sold by regulated market entities".

4. Suspend until March 1, 2016 the effect of sub-paragraph 1) of paragraph 1 of Article 36 of this Code, establishing that during the suspension of this sub-paragraph is hereby amended to be valid as follows:

"1. For state registration as an individual entrepreneur, an individual shall submit directly to the State revenue committee or through the Public service center:".

5. Suspend until January 1, 2017 the effect of sub-paragraphs 7) and 16) of Article 88 of this Code, establishing that during the suspension of this sub-paragraphs is hereby amended to be valid as follows:

"7) warns and eliminates abuses of the dominant or monopolistic position in the relevant product market, with the exception of violations stipulated by the legislation of the Republic of Kazakhstan concerning natural monopolies and regulated markets;"

"16) identify monopolistically high and low price set by the market entity having dominant or monopolistic position, except for market entities selling goods in regulated markets;"

7. Suspend until March 1, 2016 the effect of sub-paragraph 2) of paragraph 2 of Article 110 of this Code, establishing that during the suspension of this sub-paragraph is hereby amended to be valid as follows:

"2) to appeal against decisions, actions (inactions) of permitting authorities and state bodies that receive notifications, and (or) their officials, Public Service Center and (or) its employees on licensing and permitting procedures or receiving notifications in accordance with the legislation of the Republic of Kazakhstan;"

7. Suspend until January 1, 2017 the effect of sub-paragraph 4) of paragraph 3 of Article 111 of this Code, establishing that during the suspension of this sub-paragraph is hereby amended to be valid as follows:

"4) provide to public authorities and public service centers documents and (or) information necessary for the implementation of licensing and licensing procedures, including through information systems;"

8. Suspend until January 1, 2017 the effect of paragraphs 1 and 2 of Article 118 of this Code, establishing that during the suspension of this paragraphs is hereby amended to be valid as follows:

"1. 1. Tariff setting on goods, works, services in natural monopoly is carried out in accordance with the legislation of the Republic of Kazakhstan concerning natural monopolies and regulated markets.

2. Tariffs (prices, charge rates) or their limits on regulated goods, works, services of a natural monopoly entity approved by an authorized body in natural monopolies and regulated markets, taking into account the quality and reliability of goods produced, works performed, services rendered not lower than the cost of expenses necessary for the provision of regulated goods, works, services, and to consider the possibility of making a profit, ensuring the effective functioning of the natural monopoly entity.

9. Suspend until January 1, 2017 the effect of Article 119 of this Code, establishing that during the suspension of this Article is hereby amended to be valid as follows:

"Article 119. Pricing for goods, works, services produced and sold by regulated market entities

1. State regulation of prices applies to goods, works, services of the regulated markets entities in railway transport, electricity and heat power, petroleum products production, oil transportation, civil aviation, port activities, telecommunications and postal services, as well as gas, taking into account the features established by the Law of the Republic of Kazakhstan "On Gas and Gas supply".

Authorized body, responsible for managing natural monopolies and regulated markets, approves the list of goods, works and services of regulated markets entities, which are subject to state regulation of prices.

2. As a temporary measure for a certain period on the territory of the Republic of Kazakhstan, in the order determined by the anti-monopoly authority, state price regulation may be introduced in certain commodity markets and (or) for goods (works, services) of individual market entities.

General term of application of state price regulation stipulated by this Article may not exceed one hundred and eighty calendar days within one year.

3. Pricing for goods, works, services produced and sold by the regulated market entities shall be carried out in accordance with the legislation of the Republic of Kazakhstan concerning natural monopolies and regulated markets by setting the maximum price."

10. Suspend until January 1, 2017 the effect of paragraph 2 of Article 122 of this Code, establishing that during the suspension of this paragraph is hereby amended to be valid as follows:

"2. Authorized body in petroleum products production as agreed with the authorized body , exercising leadership concerning natural monopolies, in the manner, approved by the authorized body in petroleum products production, shall establish maximum prices for petroleum products retail sales, for which state price regulation is established.

11. Suspend until January 1, 2017 the effect of sub-paragraph 54) of Article 138 of this Code, establishing that during the suspension of this sub-paragraph is hereby amended to be valid as follows:

"54) return of taxes and other mandatory payments to the budget, and also completeness and timely transfer of obligatory pension contributions, mandatory professional pension contributions to the unified accumulative pension Fund and social contributions to the State social insurance Fund;"

12. Suspend until January 1, 2017 the validity of paragraph 3 of Article 193 of this Code, establishing that during the suspension of this paragraph is hereby amended to be valid as follows:

1) from January 1, 2016 to March 1, 2016:

"3. Implementation of the exclusive right is carried out by creating a state monopoly entity. State monopoly entities can be only the state enterprise created by the Government of the Republic of Kazakhstan or local executive bodies of regions, cities of republican status, the capital by the decision of the Government of the Republic of Kazakhstan.";

2) from March 1, 2016 to January 1, 2017:

"3. Implementation of the exclusive right is carried out by creating a state monopoly entity. Only a state enterprise created by the Government of the Republic of Kazakhstan or local executive bodies of regions, cities of republican status, the capital by decision of the Government of the Republic of Kazakhstan can be a state monopoly entity, with the exception of the State Corporation "Government for Citizens.".

13. Suspend for the period from March 1, 2016 to January 1, 2017 the effect of part two of paragraph 4 of Article 193 of this Code, establishing that during the period of suspension, this part is hereby amended to be valid as follows:

"Restrictions provided for in sub-paragraphs 1) and 2) of part one of this paragraph shall not apply to the State Corporation "Government for citizens".

14. Suspend until January 1, 2017 the effect of sub-paragraph 1) of paragraph 2 of Article 241 of this Code, establishing that during the suspension of this sub-paragraph is hereby amended to be valid as follows:

"1) in the manner and on the terms provided by legislation of the Republic of Kazakhstan, excused from payment for connected power in electrical energy, heat-, water supply and sewerage using the laws of the Republic of Kazakhstan concerning natural monopolies and regulated markets;

15. Declare to be no longer in force:

1) Law of the Republic of Kazakhstan dated March 31, 1998 "On farming enterprise" ( Statements of the Parliament of the Republic of Kazakhstan, 1998, No. 2-3, Art. 26; 2001, No . 24, Art. 338; 2003, No. 1-2, Art. 6; No. 4, Art. 26; No. 24, Art. 178; 2006, No. 1, Art. 5; No.

15, Art. 95; 2007, No. 9, Art. 67; No. 15, Art. 106; No. 18, Art. 143; 2008, No. 24, Art. 129; 2009, No. 15-16, Art. 76; 2010 No. 5 Art. 23; 2011, No. 6, Art. 49; 2013, No. 14, Art. 72; 2014 No. 21, Art. 122);

2) Law of the Republic of Kazakhstan "On Investments" dated January 8, 2003 (Statements of the Parliament of the Republic of Kazakhstan, 2003, No. 1-2, Art. 4; 2005, No. 9, Art. 26; 2006, No. 3, Art. 22; 2007, No. 4, Art. 28; 2008, No. 15-16, Art. 64; No. 23, Art. 114; 2009, No. 2-3, Art. 18; 2010, No. 5, Art. 23; 2012, No. 2, Art. 11; No. 6, Art. 46; No. 15, Art. 97; No. 21-22, Art. 124; 2013, No. 15, Art. 82; 2014, No. 11, Art. 64; No. 21, Art. 122; No. 23, Art. 143);

3) Law of the Republic of Kazakhstan "On Private Entrepreneurship" dated January 31, 2006 (Statements of the Parliament of the Republic of Kazakhstan, 2006, No. 3, Art. 21; No. 16, Art. 99; No. 23, Art. 141; 2007, No. 2, Art. 18; No. 3, Art. 20; No. 17, Art. 136; 2008, No. 13-14, Art. 57, 58; No.15-16, Art. 60; No. 23, Art. 114; No. 24, Art. 128, 129; 2009, No. 2-3, Art. 18, 21; No. 9-10, Art. 47, 48; No. 11-12, Art. 54; No. 15-16, Art. 74, 77; No. 17, Art. 82; No.18, Art. 84, 86; No. 19, Art. 88; No. 23, Art. 97; No. 24, Art. 125, 134; 2010, No. 5, Art. 23; No. 7, Art. 29; No.15, Art. 71; No. 22, Art. 128; No. 24, Art. 149; 2011, No. 1, Art. 2; No. 2, Art. 26; No. 6, Art. 49; No. 11, Art. 102; 2012, No. 15, Art. 97; No. 20, Art. 121; No. 21-22, Art. 124; 2013, No. 1, Art. 3; No. 5-6, Art. 30; No. 14, Art. 75; No. 15, Art. 81; No. 21-22, Art. 115; 2014, No. 1, Art. 4; No. 4-5, Art. 24; No. 10, Art. 52; No. 14, Art. 84; No. 16, Art. 90; No. 19-I, 19-II, Art. 94, 96; No. 21, Art. 122; No. 22, Art. 131; No. 23, Art. 143; 2015, No. 8, Art. 42; No. 11, Art. 52);

4) Law of the Republic of Kazakhstan "On Competition" dated December 25, 2008 (Statements of the Parliament of the Republic of Kazakhstan, 2008, No. 24, Art. 125; 2009, No. 15-16, Art. 74; 2010, No. 5, Art. 23; 2011, No. 6, Art. 50; No. 11, Art. 102; No. 12, Art. 111; 2012, No. 13, Art. 91; No. 14, Art. 95; No. 15, Art. 97; 2013, No. 4, Art. 21; No. 10-11, Art. 56; No. 14, Art. 72; 2014, No. 1, Art. 4; No. 4-5, Art. 24; No. 14, Art. 84; No. 19-I, 19-II, Art. 96; No. 21, Art. 122; No. 23, Art. 143; 2015, No. 8, Art. 42; No. 9, Art. 46);

5) Law of the Republic of Kazakhstan "On the State control and supervision in the Republic of Kazakhstan" dated January 6, 2011 (Statements of the Parliament of the Republic of Kazakhstan, 2011, No. 1, Art. 1; No. 2, Art. 26; No. 11, Art. 102; No.15, Art. 120; 2012, No. 1, Art. 5; No. 2, Art. 9, 14; No. 3, Art. 21, 25, 27; No. 8, Art. 64; No. 10, Art. 77; No. 11, Art. 80; No. 13, Art. 91; No.14, Art. 92, 95; No. 15, Art. 97; No. 20, Art. 121; No. 23-24, Art. 125; 2013, No. 2, Art. 11; No.10-11, Art. 56; No. 14, Art. 72; No. 16, Art. 83; No. 21-22, Art. 115; No. 23-24, Art. 116; 2014, No. 4-5, Art. 24; No. 7, Art. 37; No. 8, Art. 49; No.10, Art. 52; No. 11, Art. 61, 67; No. 14, Art. 84; No. 16, Art. 90; No. 19-I, 19-II, Art. 96; No. 21, Art. 122; No. 23, Art. 143; No. 24, Art. 144; 2015, No.9, Art. 46);

6) Law of the Republic of Kazakhstan dated January 9, 2012 "On State support of industrial and innovative activity" (Statements of the Parliament of the Republic of



Kazakhstan, 2012, No. 2, Art. 10; No.14, Art. 92; 2013, No. 9, Art. 51; No. 14, Art. 75; No. 15, Art. 81; 2014, No.1, Art. 4; No. 11, Art. 63; No. 19-I, 19-II, Art. 96).

*President of the  
Republic of Kazakhstan*

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