



## **Civil Code of the Republic of Kazakhstan (Special part)**

### *Unofficial translation*

Code of the Republic of Kazakhstan No 409 dated July 1, 1999.

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**Footnote. Numbers "IV-VII" after word "Section" were changed on numbers "4-7" accordingly in the text by the Law of the Republic of Kazakhstan No. 13 dated 20.12.2004 ( shall be enforced since 01.01.2005).**

## **Section 4**

### **Particular kinds of obligations**

#### **Chapter 25. Purchase and Sale**

##### **Paragraph 1. General Provisions on Purchase and Sale**

###### **Article 406. Contract of Sale**

1. Under the contract of purchase and sale one party (seller) shall undertake to transfer the property (goods) to the ownership of the other party (buyer), while the buyer shall undertake to accept these goods and pay a definite amount of money (price) therefor.

2. Provisions stipulated by this paragraph shall be applied to the purchase and sale of securities and currency values unless the legislative instruments establish special rules for their purchase and sale.

2-1. Features of trading in commodity by the Islamic bank during banking operations are established by the legislative instruments of the Republic of Kazakhstan regulating banking operations.

3. In cases provided for by this Code or any other statutory instruments the specific aspects of purchase and sale of particular goods shall be determined by the legislative and other legal acts.

4. Provisions stipulated by this paragraph shall apply to the sale of property rights, unless the contrary arises from the content or nature of these rights.

5. Provisions specified by this paragraph shall apply to particular kinds of the contracts of sale (retail sale, delivery of goods, power supply, contracting, sale of an enterprise), unless otherwise provided for by this Code regulations for these kinds of contracts.

6. In the trade of property according to procedure established for execution of the court ruling the enforcement agent acts as the seller.

Footnote. Article 406 as amended by the Laws of the Republic of Kazakhstan No. 133-IV dated 12.02.2009 (enforcement procedure see in article 2); № 262-IV dated 02.04.2010 (shall be enforced since 21.10.2010).

#### **Article 407. Provision of the Contract on Goods**

1. Any things may be deemed as the goods under the contract of sale if the rules envisaged by Article 116 of this Code are complied with.

2. A contract may be concluded for the sale and purchase of goods available to the seller at the time of its conclusion, and also of goods which will be created or procured by the seller in the future, unless otherwise provided for by the legislative instruments or arises from the nature of goods.

3. Provision on the goods is deemed agreed if the contract makes it possible to determine the name and quantity of goods (material conditions).

#### **Article 408. Seller's obligations on transfer of the goods**

1. The seller shall be obliged to transfer to the buyer the goods provided for by the contract of sale.

2. Unless otherwise stipulated by the contract of sale, the seller shall be obliged to transfer to the buyer the goods together with its accessories, as well as documents relevant thereto ( documents confirming the goods completeness, safety and quality, operation procedure and so on) provided for by the legal and statutory, and other legal instruments or contracts.

#### **Article 409. Time limit for performance of the obligation to transfer the goods**

1. Time limit for performance of the seller's obligation to transfer the goods to the buyer shall be determined by the contract of sale, and if the contract does not allow to determine this term it shall be determined by the rules stipulated by Article 277 of this Code.

2. The contract of sale shall be deemed to be concluded with the proviso of its performance by the strictly fixed date, if it follows succinctly from the contract that in case of breaking the term of its execution the buyer loses his interest in the contract.

The seller may not perform such contract until or upon expiry of the term fixed thereby without the buyer's consent.

Legislative acts or the contract can establish the cases of sale contract partial implementation (milestones of the contract performance).

#### **Article 410. Time of the seller's obligation to transfer the goods**

1. Unless otherwise stipulated by the contract of sale, the seller's obligation to transfer the goods to the buyer shall be deemed to be performed at the time of:

1) delivery of the goods to the buyer or the person indicated by him, if the contract provides for the seller's duty to deliver goods;

2) provision of the goods at the buyer's disposal if the goods shall be transferred to the buyer or the person specified by him/her at the location of the goods.

Goods shall be deemed to be placed at the buyer's disposal, when by the time specified by the contract goods are ready for the transfer in the proper place and the buyer is aware of the readiness of goods for such transfer in accordance with the contract's conditions. Goods shall not be deemed to be ready for transfer, if they have not been identified for the contract's purposes by marking or otherwise

2. In cases, where the contract of sale shall not followed the seller's obligation to deliver goods or transfer the goods to the buyer at its location, the obligation of the seller to transfer the goods to the buyer shall be considered to be executed at the moment of delivery of the goods to the carrier or the organization due for delivery to the buyer, unless the contract provides otherwise.

#### **Article 411. Passing the risk of accidental loss of goods**

1. Unless otherwise stipulated by the contract of sale, the risk of accidental loss or accidental damage of the goods, which is provided by the contract of sale, shall be passed to the buyer, when in accordance with legislative acts or the contract, the seller is considered to perform his (her) duty to transfer the goods to the buyer.

2. The risk of accidental loss or accidental damage of the goods, sold on the way, shall be passed to the buyer since the moment of conclusion of the contract of sale, unless otherwise provided for by the contract or customary business practice.

A condition of the contract, that the risk of accidental loss or accidental damage of the goods passes to the buyer, since the moment of delivery of the goods to the first carrier, and at the request of the buyer could be found invalid by a court, if, at the time of conclusion of the contract the seller knew or should know that the goods are lost or damaged and not reported it to the buyer

#### **Article 412. The seller's obligation on preservation of the sold goods**

When the property right, the right of economic management or operational control pass to the buyer before delivering the goods, the seller shall be obliged to preserve the goods before transferring and prevent its deterioration.

The buyer shall be obliged to reimburse to the seller the necessary costs, unless otherwise provided for by agreement of the parties.

#### **Article 413. The seller's obligation to transfer the goods free from the rights of third persons**

1. Seller is obliged to transfer the goods, free of any rights of third parties, except for the case, where the buyer has agreed to take the goods, which are encumbered by the rights of third parties.

The seller's failure to perform this obligation shall entitle the buyer to demand a reduction in the price of goods or cancellation of the contract and claim damages, if it can be shown that the buyer knew or should have known about the rights of third parties on this product.

2. The rules provided for in paragraph 1 of this Article shall be, respectively, apply to the case when by the time of goods transferring to the buyer, there were the claims of third parties of which the seller was aware if such claims had been found to be legally valid in future.

#### **Article 414. The seller's liability in the case of seizure of the goods from the buyer**

1. In the case of seizure of the goods from the buyer by third parties on the grounds that arose before execution of the contract, the seller is obliged to compensate the buyer incurred losses, unless it shall be proved that the buyer knew or should have known about the presence of these grounds.

2. The parties' agreement upon releasing of the seller from the liability or limitation of liability is not valid in the case of demand of the purchased goods from the buyer by third parties is null and void.

**Footnote. Article 414 as amended by Law of the Republic of Kazakhstan No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 415. Obligations of the buyer and seller in the case of filing out the claim for seizure of the goods**

1. If a third party brings an action for the seizure of goods on the ground that arose before execution of the contract of sale, the buyer shall be obliged to draw the seller to the participation in the case, whereas the seller shall be obliged to join this case on the side of the buyer.

2. The buyer's failure to involve the seller in participation in the case shall release the seller from his/her liability to the buyer, if the seller proves that by taking part in the case he/she could prevent the seizure of sold goods from the buyer.

3. The seller involved by the buyer in the case but failed to take part therein shall be deprived of the right to prove the buyer's irregularity on proceedings in the case.

#### **Article 416. Consequences of the failure to perform obligation on transfer the goods**

1. If the seller refuses to transfer the sold goods to the buyer, the buyer may waive the execution of the contract of sale.

2. If the seller refuses to transfer the certain individual thing, the buyer may lay claims to the seller, provided for by Article 355 of this Code.

**Article 417. Consequences of failure to perform obligation on transfer of accessories and documents relating to the goods**

1. If the seller fails to pass or refuses to pass to the buyer accessories or documents relating to goods, which he shall transfer (paragraph 2 of Article 408), the buyer may establish the reasonable period of time for their transfer.

2. In case when the accessories and documents relating to goods have not been transferred by the seller within specified period of time, the buyer may refuse to accept the goods, unless otherwise stipulated by the contract.

**Article 418. Quantity of the goods**

Quantity of the goods subject to transfer to the buyer shall be provided for by the contract of sale in corresponding units of measurement or in money terms. The condition of the quantity of goods may be agreed upon by fixing in the contract the order of its determination.

**Article 419. Consequences of the breach of condition on quantity of the goods**

1. If the seller has passed to the buyer, in breach of the contract of sale, the goods in quantity less than that specified in the contract, the buyer may, unless otherwise provided for by the contract, demand the transfer of missing quantity of goods or refuse to accept the goods transferred and to pay for them, and if the goods have been already paid for, - demand the return of the paid sum of money.

2. If the seller has passed to the buyer the goods in the quantity exceeding that specified in the contract of sale, the buyer shall be obliged to notify the seller thereof in the procedure, provided for by paragraph 1 of Article 436 of this Code. If the seller has failed to dispose of the relevant goods within the reasonable period of time, after receipt of the buyer's notice, the buyer may accept all goods, unless otherwise stipulated by the contract.

3. If the buyer accepts goods in the quantity exceeding that specified in the contract of sale, the relevant goods shall be paid for at the price specified for the goods accepted in conformity with the contract, unless other price is determined by the agreement between the parties.

**Article 420. Range of the goods**

If, under the contract of sale, the goods are subject to transfer in a certain ratio according to kinds, models, sizes, colours and other properties (range), the seller shall be obliged to transfer the goods in the assortment agreed to by the parties.

**Article 421. Consequences of the breach of condition on the range of goods**

1. In case of the transfer of goods, stipulated by the contract of sale, in assortment inconsistent with the contract, the buyer may refuse to accept them and pay for them, and if they have been already paid for, - demand the return of the paid sum of money.

2. If the seller has transferred to the buyer, the goods in violation of the terms of the contract, along with the goods, which range corresponds to the contract, the buyer may, at own option:

1) accept the goods conforming to the contract condition on assortment and refuse to accept the rest of goods;

2) refuse to accept all the goods transferred;

3) demand the replacement of the goods not appropriate with the condition on assortment by the goods in assortment provided for the contract;

4) accept all the goods transferred.

3. In case of the refusal from the goods in assortment not conforming to the condition of the contract, or in case of making a claim for the replacement of goods inconsistent with the assortment condition, the buyer shall have the right to refuse to pay for these goods, but if they have been paid for, to demand the return of the paid sum of money.

4. Goods not conforming to the assortment condition of the contract of sale shall be deemed to be accepted, if the buyer fails to inform the seller about his/her refusal to accept the goods.

5. If the buyer has not refused to accept goods in assortment not conforming to the contract of sale, he/she shall be obliged to pay for them at the price agreed upon with the seller. If the seller failed to take measures required for the price adjustment within the 15-day period, the buyer shall pay for goods at the price which at the time of concluding a contract under comparable circumstances has been usually charged for similar goods.

6. The rules of this Article shall apply, unless otherwise stipulated by the contract of sale.

#### **Article 422. Quality of the goods**

1. The seller shall be obliged to transfer to the buyer the goods of quality conforming to the contract of sale.

2. If the quality terms are not provided for in the contract of sale the seller shall be obliged to transfer to the buyer the goods suitable for the purposes for which the goods of this sort are commonly used.

If the seller was informed by the buyer about the particular purposes of the procurement of goods during the conclusion of the relevant contract, the seller shall be obliged to transfer to the buyer the goods suitable for use in conformity with these purposes.

3. If the goods are sold on sample and (or) by description the seller shall be obliged to transfer the goods which conform to the sample and (or) description.

4. If the procedure established by the legislative instruments provides for mandatory requirements for the quality of goods traded, the seller engaged in business shall be obliged to transfer to the buyer the goods conforming to these mandatory requirements.

Under the agreement between the seller and the buyer the goods meeting the higher requirements for quality as compared with the mandatory requirements established in the procedure provided for by the legislative instruments.

5. The goods subject to obligatory transfer by the seller to the buyer, shall conform to the requirements stipulated by this article, at the moment of their transfer to the buyer, unless other moment for determination of the goods conformity to these requirements is provided for by the contract, and shall be suitable for purposes of common use of such goods, within the reasonable period of time.

#### **Article 423. Usable shelf life of the goods**

1. Legislation and mandatory requirements of the national standards or other mandatory rules may determine the period of time at the expiration of which the goods are considered unsuitable for use as intended (usable shelf life), as well as the cases when the goods contain the mark specifying their usable shelf life.

2. The seller is obliged to transfer to the buyer the goods with a fixed usable shelf life ensuring that they may be used up to their shelf life expiry.

**Footnote. Article 423 as amended by Law of the Republic of Kazakhstan No. 31-V dated 10.07.2012 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 424. Calculation of usable shelf life of the goods**

Usable shelf life of the goods shall be determined by the period of time, calculated since the day of their manufacture, during which goods are fit for use, or by the date up to which the goods are fit for use.

#### **Article 425. Assurance of the goods quality**

1. If the contract provides for the seller's assurance of the goods quality, the seller is obliged to transfer the goods, which shall meet the requirements of Article 422 of this Code, for a period of time established by the contract (warranty period).

2. Assurance of the goods quality shall also cover all components (complementary parts) thereof, unless otherwise provided for by the contract of sale.

#### **Article 426. Calculation of the warranty period**

1. Calculation of the warranty period shall start since the time of the goods transfer to the buyer (Article 410 of this Code), unless otherwise stipulated by the contract of sale.

2. If the buyer is unable to use the goods, for which the contract established the warranty period, due to the circumstances under the control of the seller, the warranty period calculation shall be suspended until the seller eliminates the relevant circumstances.

Unless otherwise stipulated by the contract of sale, the warranty period shall be extended for the time during which the goods could not be used because of the discovered shortcomings, provided that the seller is informed about the defects of goods in the order established by Article 436 of this Code.

3. Unless otherwise stipulated by the contract of sale, the warranty period for complementary parts shall be deemed to be equal to the warranty period for the basic item and shall begin to run simultaneously with the warranty period for the basic item.

4. In case of the goods replacement this warranty period shall begin to run, unless otherwise stipulated by the contract of sale.

#### **Article 427. Product quality review**

1. If the legislation or the contract provide for the product quality review, it shall be performed according to the requirements, established therein.

In cases when the national standards and other regulatory instruments in standardization establish the mandatory requirements, product quality review, quality control shall be conducted according to instructions contained therein.

2. If the conditions for review of the goods quality are not provided for by the procedure established by paragraph 1 of this Article, the goods quality review shall be carried out in accordance with the customary business practices or other commonly used terms and conditions for inspection of the goods subject to transfer under the contract of sale.

3. If the legislative instruments, the mandatory requirements of state standards, other regulatory instruments in standardization or the contracts provide for the seller's obligation to review the quality of goods transferred to the buyer (testing, analysis, inspection, etc.), the seller shall present to the buyer, under his/her request, the evidences of product quality review being conducted.

**Footnote. Article 427 as amended by the Law of the Republic of Kazakhstan No. 31-V dated 10.07.2012 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 428. Consequences of transfer of improper quality goods**

1. In case of the goods shortcoming being not specified by the seller, the buyer whom the improper quality goods have been transferred to may, at own option, demand from the seller to:

- 1) reduce the purchase price, proportionally



- 2) remedy, on a gratis basis, the shortcomings in goods, within the reasonable period of time;
- 3) compensate the expenses incurred in the removal of the defects of goods;
- 4) replace the goods of improper quality for the goods conforming to the contract;
- 5) repudiate the contract and return the sum of money paid for the goods.

Contract provisions on the buyer's waiver of the rights provided for by the first part of this paragraph shall be null and void.

2. In the event of the improper quality of some part of goods that makes up the set (Article 432 of this Code) the buyer may exercise, in respect of this part of goods, the rights, provided for by paragraph 1 of this Article.

3. When the seller of the goods of improper quality is not their manufacturer, requirements on replacement of the goods or on free elimination of their shortcomings may be claimed either to the seller or to the manufacturer at the buyer's option.

4. The rules provided for by this Article shall apply, unless otherwise provided for by this Code or other legislative instruments.

**Footnote. Article 428 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 429. Defects of goods for which the Seller bears responsibility**

1. The seller shall be responsible for the defects of goods, if the buyer proves that they had arisen before their transfer to the buyer or for the reasons arisen before that moment.

The Seller is responsible for defects of sold goods, also in the case when he/she did not know about them. Agreement on exemption of liability of the seller or on its limitation is null and void.

2. In respect of the goods for which the seller provided the quality assurance, the seller shall be responsible for defects of goods in the case of failure to prove that the defects in the goods arose after their transfer to the buyer as a result of the buyer's breach of the rules for the goods using and storing or due to actions of third parties or the force majeure circumstances.

**Footnote. Article 429 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 430. Time limits for detection of defects in the goods transferred**

1. Unless otherwise stipulated by the legislative instruments or the contract of sale, the buyer may raise a demand associated with defects of goods, provided that they have been detected within the time limits established by this Article.

2. If no warranty period or shelf life is established for goods the claims in respect of the defects in goods may be made by the buyer, provided that the defects of goods sold have been detected in the reasonable period of time, but within two years since the day of the goods transfer to the buyer unless the longer terms are established by the legislative instruments or the contract of sale. Time limits for detection of defects in the goods subject to carriage or shipment by post are calculated since the day of the goods receipt at the place of their destination.

3. If a warranty period is fixed for the goods, the buyer may raise a demand associated with defects of goods upon detection of defects within the warranty period.

If the contract of sale establishes the warranty period for complementary parts with less duration than that for the basic item, the buyer may raise a demand related to the defects in a complementary part upon their detection within the warranty period for the basic item.

If the contract of sale establishes the warranty period for complementary parts with longer duration than that for the basic item, the buyer may raise a claim related to defects of the goods, if defects in the complementary part are detected within warranty period, regardless of the expiry of the warranty period for the basic item.

4. In respect of the goods for which the usable shelf life is established the buyer may raise the demand related to the defects of goods life, if they are detected within the established term of their shelf life.

5. If the warranty period stipulated by the contract is less than two years and defects in goods are detected by the buyer upon the expiry of the warranty period, but within two years since the day of the transfer of goods to the buyer, the seller shall bear responsibility, if the buyer proves that the defects of goods arose before their transfer to the buyer or for the reasons that arose before that moment.

#### **Article 431. Completeness of the goods**

1. The seller shall be obliged to transfer to the buyer the goods in completeness conforming to the terms and conditions of the contract of sale.

2. If the completeness of goods is not determined by the contract, the seller shall be obliged to transfer to the buyer the goods in completeness determined by the customary business practices or by other normal requirements.

**Footnote. Article 431 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated 27.02.2017 (shall be brought to effect upon expiry of ten calendar days after its first official publication).**

#### **Article 432. Set of goods**

1. If the contract of sale provides for the seller's obligation to transfer to the buyer a definite set of goods, the obligation shall be deemed to be fulfilled since the time of transfer of all goods included in the set.

2. Unless otherwise stipulated by the contract of sale and follows from nature of the obligation, the seller shall be obliged to transfer to the buyer all goods included in the set, simultaneously.

#### **Article 433. Consequences of transfer of incomplete goods**

1. If an incomplete set of goods is transferred (Article 431 of this Code), the buyer may, at own option, demand from the seller to:

- 1) reduce the purchase price, proportionally
- 2) supply the missing goods additionally within the reasonable period of time;
- 3) replace the incomplete goods with complete ones;
- 4) repudiate the contract and return the sum of money paid for the goods.

2. The consequences provided for by paragraph 1 of this Article, shall also apply in the case of the breach by the seller of obligation to transfer to the buyer a set of goods (Article 432 of this Code), unless otherwise stipulated by the legislation or contract of sale or follows from nature of the obligation.

#### **Article 434. Tare and packaging**

1. Unless otherwise stipulated by the contract of sale and follows from nature of the obligation, the seller shall be obliged to transfer the goods in tare and (or) in packaging.

2. If the requirements for tare and packaging are not determined by the contract of sale, the goods shall be boxed or cased and (or) packaged by the method commonly used for such goods, and in the absence thereof by the method that ensures the safety of goods of such kind under the usual conditions of storage and transportation.

3. If the statutory order provides for mandatory requirements for tare and (or) packaging, the seller engaged in business shall be obliged to transfer goods to the buyer in tare and (or) in packaging meeting these mandatory requirements.

#### **Article 435. Consequences of the transfer of uncovered and (or) in bulk goods or in transfer thereof in improper tare and (or) packaging**

1. In cases of the goods subject to transfer in tare and (or) packaging are transferred to the buyer in bulk and (or) uncovered, or in improper tare and (or) package the buyer may demand from the seller to case or box and (or) pack the goods or to replace the improper tare and (or) packaging, unless otherwise follows from the contract, nature of the obligation or kind of the goods.

2. Instead of presenting the requirements specified in paragraph 1 of this Article to the seller, the buyer may present to him/her any other requirements arising from the transfer of improper quality goods (Article 428 of this Code).

#### **Article 436. Notification of the seller about improper performance of the contract**

1. The buyer shall be obliged to notify the seller about the breach of the contract term and conditions on the quantity, assortment, quality, completeness, tare and (or) package of goods within the period provided for by the legislative instruments, other legal regulatory acts or the contract, and if such period has not been established, within the reasonable period after the breach of the relevant term of the contract should be detected based on nature and purpose of the goods.

2. In case of non-fulfilment of the rule, envisaged by Item 1 of this Article, the seller may refuse, in full or in part, from the satisfaction of the claims of the buyer, if he proves that the non-fulfilment of his rule by the buyer has involved the impossibility of satisfying his claims the seller's incommensurable expenses as compared with those he would have incurred in case of timely notification of the breach of the contract.

3. If the seller knew or shall know about the fact that the transferred goods did not correspond to the terms of the contract of sale, he may refer to the provisions, stipulated by paragraph 1 of this Article.

#### **Article 437. Obligation of the buyer to accept goods**

1. The buyer shall be obliged to accept the goods transferred by the seller except for the cases when according to the provisions of this article he/she/it may demand for replacement of the goods or refuse to perform the contract.

2. Unless otherwise stipulated by the law, other legal acts or the contract o, the buyer shall be obliged to commit actions which according to normal requirements are needed on his part to ensure the transfer and acceptance of relevant goods.

3. In cases where the buyer in contravention of the law, other legal acts or the contract does not accept goods or refuses to accept them, the seller may demand from the buyer to accept goods or refuse to fulfil the contract.

#### **Article 438. Price of goods**

1. The buyer shall be obliged to pay for goods at price, specified by the contract at the price fixed in accordance with Article 385 of this Code unless the contract provides for the price and unless it may be estimated by proceeding from its terms, and also perform actions at his/her/it own expense, which in accordance with the law, other legal acts, the contract or the usual requirements are necessary for making payments.

2. When price is set depending on the weight of goods, it shall be estimated according to the net weight, unless otherwise stipulated by the contract of sale.

3. If the contract of sale provides for that the price of goods is subject to change depending on indices stipulating price of goods (cost price, expenses, etc.), but the method of the price revision is not determined, the price shall be estimated based on correlation of these indices at the time of concluding the contract and transferring any goods. In case of the seller's delay in fulfillment of obligation to transfer the goods, the price shall be estimated from the correlation of these indices at the time of concluding the contract, and the contract does not provide for this, on the day set in accordance with Article 277 of this Code.

The rules provided for this paragraph shall be applicable, unless otherwise stipulated by this Code, other legal acts or unless the contrary follows from the nature of the obligation concerned.

#### **Article 439. Payment for goods**

1. The buyer shall be obliged to pay for goods directly before or after transfer of goods or shipping documents thereto, unless otherwise stipulated by the contract and other legal acts.

2. If the contract of sale does not provide for payments for goods by installment, the buyer shall be obliged to pay to the seller the full price for transferred goods.

3. If the buyer does not pay for the goods transferred to him in accordance with the contract, the seller may demand the payment for goods and interest payment by other people's money (Article 353 of this Code).

4. If the buyer refuses to accept goods and pay for them in contravention of the contract, the seller may at his option to demand either payment for goods or refuse to fulfill the contract.

5. In cases where in accordance with the contract of sale the seller may transfer to the buyer the goods which have not been paid by the buyer and other goods, the seller may suspend transfer of these goods until the time when all the goods transferred earlier are paid in full, unless otherwise stipulated by the law, other legal acts or the contract.

#### **Article 440. Advance payment for goods**

1. In cases where the contract provides for the obligation of the buyer to pay for goods in full or in part before the transfer by the seller of goods (advance payment), the buyer shall make payment within the period provided for by the contract, and if such period is not provided for by the contract, within the period, determined pursuant to Article 277 of this Code.

2. In case of the buyer's failure to perform the obligation on advance payment for goods, rules, provided for Article 284 of this Code shall be used.

3. If, upon receipt of the advance payment, the seller fails to perform obligation on the goods transfer within the fixed period (Article 409 of this Code), the buyer may demand the transfer of the paid goods or refund of the sum of advance payment for goods which have not been transferred by the seller.

4. If the seller fails to perform obligation on the goods transfer and unless the contrary is stipulated by the law or the contract, interest shall be paid to the amount of the advance payment pursuant to Article 353 of this Code since the day when under the contract the goods shall be transferred till the day of the of actual transfer of goods or the refund to the buyer of the sum of money paid in advance. The contract may provide for the obligation of the seller to pay interest to the amount of the advance payment since the day of the receipt of this sum from the buyer.

#### **Article 41. Payment for goods sold against credit**

1. If the contract provides for payment for goods over a definite period of time after transfer to the buyer (sale of goods against credit), the buyer shall effect the payment on due date provided for by the contract, and if such date is not stipulated by the contract, on due date defined in accordance with Article 277 of this Code.

2. In case of failure to perform obligation to transfer goods by the seller, rules, provided for by Article 284 of this Code shall be used.

3. If the buyer failed to perform obligations on payment within the period fixed by contract, the seller may demand payment for transferred goods or refund of the goods not paid for.

If the buyer fails to fulfill the obligation on payment for the transferred goods within the period stipulated by the contract and unless the contrary is specified by this Code or the contract, interest shall be paid to the amount of the overdue sum of money in accordance with Article 353 of this Code from the day when the goods shall have been paid for to the day of payment for goods by the buyer.

4. The contract may provide for obligation of the buyer to pay interest to the amount corresponding to price of goods starting with the day of transfer of the goods by the seller.

5. Sale of goods in credit shall be performed at price, applicable on date of sale. Further changes of price on goods do not imply resettlement unless otherwise provided for by the regulatory acts or the contract.

#### **Article 442. Payment for goods by installments**

1. The contract of sale of goods against credit can stipulate payment by installments.

The contract for sale of goods against credit with the proviso on installment of date shall be deemed to be concluded, if price of goods, the procedure, period and amount of payments together with other essential terms of the contract are indicated in it.

2. When the buyer fails to make a regular payment for the goods sold by installment and transferred to the buyer within the period stipulated by the contract, the seller may, unless otherwise provided for by the contract, refuse to execute the contract and demand refund of the sold goods except in of cases where the sum of payments received from the buyer exceeds half of the price of the goods.

#### **Article 443. Insurance of goods**

1. The contract of sale may provide for the obligations of the seller or the buyer to insure goods, unless otherwise provided for by the regulatory acts.

2. If the party, which shall ensure goods, does not effect insurance in accordance with the contract terms, the other party shall may ensure these goods and demand from the obliged party to reimburse expenses on insurance or refuse to execute the contract.

#### **Article 444. Retention of title to goods for the seller**

1. In cases where the contract of sale provides for that the seller retains the title to goods transferred to the buyer before payment for the goods or the occurrence of other circumstances, the buyer may not alienate the goods or dispose of them in any other way till transfer of the ownership to the buyer, unless otherwise stipulated by the law or the contract or unless the contrary follows from the purpose and property of the goods.

2. In cases where the transferred goods are not paid for within the period specified by the contract or in occurrence of other circumstances under which the right of ownership passes to the buyer, the seller may demand the return of the goods, unless otherwise stipulated by the contract.

#### **Paragraph 2. Retail sale**

#### **Article 445. Retail sales contract**

Under Retail Sales Contract the seller engaged in retail sales shall transfer to the buyer goods intended for personal, family, home and any other use not related to the business activity.

Retail Sales Contract shall have the standard contract form (Article 387 of this Code).

#### **Article 446. Form of Retail Sales Contract**

Unless otherwise stipulated by Retail Sales Contract, including by the terms of form sheets or other standard forms, to which the buyer joins (Article 389 of this Code), Retail Sales Contract shall be deemed to be concluded in proper form since issue by the seller to the buyer of a cash-desk ticket or sale receipt, or any other document confirming payment for

goods. Absence of mentioned documents shall not deprive the buyer of the opportunity to refer to testimony by witnesses to confirm the conclusion of the contract and its terms and conditions.

#### **Article 447. Public offer of goods**

1. Display of goods, demonstration of their samples or submission of information on sold goods (description, catalogues, photos etc.) shall be recognized as public offer regardless of whether the price or other essential conditions were indicated except for cases where the seller has clearly determined that the relevant goods are not intended for sale.

2. The offer of goods in advertisement, merchandise catalogues and descriptions of goods, referred to people at large and not containing essential terms and conditions of Retail Sales Contract shall not be recognized as public offer.

#### **Article 448. Presentation of information about goods to the buyer**

1. The seller shall be obliged to present to the buyer the requisite and trustworthy information about goods offered for sale. Such information shall correspond to the requirements, established by the law, other legal acts and usually made in retail sale, for content and methods of such information presentation.

2. The buyer may, before conclusion of Retail Sales Contract, to inspect goods, demand check-up of their properties or their demonstration, unless this is excluded due to nature of goods and does not contravene rules, adopted in retail sale.

3. The seller who has not offered to the buyer the possibility to receive the relevant information about goods shall also bear liability for defects of goods which arose after their transfer to the buyer, if the buyer proves that they had arisen in the absence of such information.

#### **Article 449. Sale of goods with the proviso that the buyer accepts them within the fixed period of time**

1. Retail Sales Contract may be concluded by the parties with the proviso that the buyer accepts goods within the period of time fixed by the contract, during which these goods may not be sold to another buyer.

2. Unless otherwise stipulated by the contract, the failure of the buyer to appear or non-commission of other necessary actions for the acceptance of goods within the period of time, fixed by the contract, may be regarded by the seller as a ground for refusal of the buyer to fulfil the contract.

3. The seller's additional expenses on secured transfer of goods to the buyer within the period, fixed by the contract, shall be included in price of goods, unless otherwise stipulated by the law, other legal acts or the contract.



### **Article 450. Sale of goods by samples**

1. Retail Sales Contract may be concluded on the basis of the buyer familiarization with sample of the goods (its description, goods catalogue etc.), offered by the seller.

2. Unless provided otherwise by legal acts, or the contract, the contract shall be considered to be performed from the moment of delivery of the goods to the place specified in the contract, or if the place of transfer of the goods is not determined by the Contract, from the moment of delivery of the goods to the place of residence of the individual or to the location of the legal entity.

3. The buyer before transfer of the goods may refuse from performance of any Retail Sales Contract subject to compensation to the seller for necessary expenses incurred due to performance of actions related to fulfilment of the contract.

### **Article 451 Sale of goods using machines**

1. When goods are sold using machines, the owner of these machines shall be obliged to inform the buyers about goods (name, quantity, price per unit etc.) and the seller putting up on machine or otherwise name (brand name) of the seller, the place of his/her/it location, working conditions, and also on actions to be committed by the buyer for receipt of goods.

2. The contract shall be deemed to be concluded since the time of the commission by the buyer of the actions necessary for receipt of goods.

3. If paid goods are not transferred to the buyer, the seller shall be obliged to transfer goods to the buyer or to return the sum of money paid by the buyer.

### **Article 452. Sale of goods with the proviso of their Delivery to the buyer**

1. If Retail Sales Contract has been concluded with the proviso of delivery of goods to the buyer, the seller shall be obliged to deliver goods to the place indicated by the buyer within the period of time, fixed by the contract.

2. Retail Sales Contract shall be deemed to be executed since the time of the goods transfer to the buyer, and in the absence of the latter, to any other person who has submitted receipt or any other document indicating on conclusion of the contract or execution of delivery of goods, unless otherwise stipulated by the law, other legal acts or the contract and unless the contrary follows from the nature of the obligation concerned.

### **Article 453. Price and payment for goods**

1. The buyer shall be obliged to pay for goods at the price quoted by the seller at the time of conclusion of the Retail Sales Contract, unless otherwise stipulated by the law or other legal acts or unless it follows from the nature of the obligation concerned.

2. If Retail Sales Contract provides for advanced payment for goods (Article 440 of this Code), the buyer's failure to pay for goods within the period of time fixed by the contract

shall be deemed to be the buyer's refusal to fulfil the contract, unless otherwise stipulated by the contract of the parties thereto.

3. The rule stipulated for by the second paragraph of paragraph 3 of Article 441 of this Code shall not be applied to Retail Sales Contract against credit, including to those with the proviso of payment by the buyer for goods by installment.

4. The buyer may pay for goods at any time within the contractual period of installment of date.

#### **Article 454. Exchange of goods**

1. The buyer may, during fourteen days since the time of the transfer of non-food products to him/her/it, unless the longer period is declared by the seller, exchange bought products in the place of purchase and in other places, announced by the seller, for similar products of different size, form, clearance, style, colour or complete set, making necessary resettlement with the seller if there is a difference in price.

2. If the seller has not at his/her/it disposal the goods needed for exchange, the buyer may return to the seller the acquired goods and receive the sum of money paid for them.

3. The demand of the buyer for exchange or return of goods shall be subject to satisfaction, if the goods have been in use, retained their consumer properties and there is evidence that they have been bought from the given seller.

4. The list of goods which are not subject to exchange or return according to the grounds, referred to in this Article, shall be determined in the order prescribed by the law or other legal acts.

#### **Article 455. Rights of purchaser in the event of Sale of goods of improper quality**

1. Buyer to whom goods of improper quality have been sold, unless its defects were stipulated by the seller, shall be entitled to perform actions, stipulated in paragraph 1 of article 428 of this Code, and the buyer shall return received goods of improper quality at the request of the seller and at his/her/its expense.

2. In case of return of the amount, paid for the goods to the buyer, the seller may not deduct from the buyer the amount, on which cost of goods had reduced due to complete or partial use of goods, loss of marketable appearance etc.

#### **Article 456. Compensation for the difference in price at replacement of goods, reduction of purchase price and return of goods of improper quality**

1. When substandard goods are replaced by goods of proper quality conforming to the retail sale contract, the seller may not demand compensation for the difference between the

price of goods specified by the contract and the price of goods existing at the time of the replacement of goods or of the delivery by the court of its decision on the replacement of goods.

2. In case of replacement of substandard goods by similar goods of proper quality but with different size, style, sort or other distinctive features, the difference between the price of the replaceable goods at the time of replacement and the price of goods transferred in place of substandard goods shall be subject to compensation.

If the demand of the buyer has not been satisfied by the seller, these prices shall be fixed at the time of the delivery by the court of decision on the replacement of goods.

3. If demand is made on proportional reduction in the purchase price of goods, the allowance shall be made to the price of goods at the time of making a demand on their price reduction, and if the buyer's demand has not been satisfied voluntarily, at the time of the delivery by the court of decision on the proportionate reduction of the price.

4. If substandard goods are returned to the seller, the buyer may demand compensation for the difference between the price of goods fixed by the retail sale contract and price of appropriate goods at the time of the voluntary satisfaction of his/her/it demand, and if this demand has not been satisfied voluntarily, at the time of the delivery by the court of decision.

#### **Article 457. Liability of the seller and fulfillment of obligation in kind**

In case of failure to perform obligation under retail sale contract by the seller, the compensation of losses and payment of penalty shall not exempt the seller from the obligation in kind.

#### **Paragraph 3. Supply of goods**

#### **Article 458. Supply contract**

Under the supply contract the seller (supplier) engaged in business undertakes to transfer to the buyer the produced or purchased goods within the fixed period or periods of time for use in business or for other purposes not related to personal, family, home or any other use.

#### **Article 459. Settlement of disagreements during conclusion of supply contract**

1. When during the supply contract conclusion some disagreements arose between the parties in relation to particular terms and conditions of the contract, the party having initiated the contract conclusion and received from the other party the proposal on the adjustment of these terms and conditions shall, within thirty days since the day of this proposal receipt, unless other date is fixed by law and agreed upon between the parties, take measures on coordination of the relevant terms and conditions of the contract or notify in writing the other party about the refusal to conclude it.

2. The party which has received the proposal under the relevant contract terms and conditions but has not taken measures to coordinate the terms and conditions of the supply contract and has not notified the other party about the refusal to conclude the contract on due date, provided for by paragraph 1 of this Article, shall be obliged to compensate the losses caused by the evasion from the coordination of the contract terms and conditions .

#### **Article 460. Duration of supply contract**

1. Supply contract can be concluded for the period of one year, for the period of more than one year (long-term contract) or for other period, stipulated by agreement of the parties.

If its validity period is not determined in the contract and does not follow from the nature of the obligation, the contract shall be deemed concluded for one- year t period.

2. If quantity of delivered goods or other contractual terms were determined in long-term contract for the one-year or longer period, the contract shall establish the procedure for coordination of relevant terms and conditions for the next periods till the contract termination date. If the coordination procedure is not provided for by the contract, the contract shall be deemed concluded for one-year period or for the period according to the contract conditions and terms.

#### **Article 461. Periods of goods supply**

1. In case where the parties provide for supply of goods during the validity term of supply contract by separate batches and when periods of supply of separate batches (periods of supply) were not defined, goods shall be supplied by even shipments batches monthly, unless the contrary follows from legal acts, nature of obligations and the customary business practices.

2. Supply contract may establish a schedule of shipment of goods (by decade, day, hour, etc.) in addition to definition of periods of delivery of goods.

3. Early delivery of goods may be made with the consent of the buyer.

4. Goods supplied earlier and accepted by the buyer shall be counted towards the quantity of goods subject to delivery in the next period.

#### **Article 462. Procedure for goods supply**

1. Goods shall be supplied by the supplier by means of shipment (transfer) of goods to the buyer under the contract or to person indicated in the contract as a consignee.

2. When supply contract provides for the right of the buyer to give to the supplier instructions on the shipment (transfer) of goods to consignees (shipment warrants), goods shall be shipped (transferred) by the supplier to the consignees, referred to in the shipment warrant.

3. The shipment warrant content and date of its sending by the buyer to the supplier shall be determined by the contract. If the contract does not provide the time of shipment warrant sending, the latter shall be sent to the supplier within thirty days before start of supply.

4. Failure to submit a shipment warrant by the buyer within the fixed period shall entitle the supplier to renounce the execution of the contract unless otherwise provided by the contract.

#### **Article 463. Delivery of goods**

1. Delivery of goods shall be made by the supplier by means of their shipment by vehicles, provided for by the contract and on the contractual terms and conditions.

2. If the type of transportation and delivery terms are not specified in the contract, the supplier has the right to choose the type of transportation and the delivery terms at own discretion, unless the contrary follows from the legal acts and nature of the obligation concerned or customary business practices.

#### **Article 464. Replenishment of short-delivery of goods**

1. The supplier having committed the short - delivery of goods in a particular period of delivery shall be obliged to replenish the short delivered goods in the next period (periods) within the validity term of the contract, unless otherwise provided for by the contract.

2. According to long-term contract, quantity of goods, under delivered by the supplier within the certain period of delivery, shall be replenished within the next period (periods) within the year, when short delivery was allowed, unless otherwise provided for by the contract.

3. When goods are shipped by the supplier to several consignees, referred to in the contract or shipment warrant of the buyer, goods delivered to one consignee and quantity stipulated for by the contract or shipment warrant shall not be counted towards the short delivery of goods to other consignees, unless otherwise stipulated by the contract.

4. Notifying the supplier, the buyer may accept goods which delivery has been overdue, unless otherwise stipulated by the contract very. Goods, delivered before the supplier receives the notification concerned, the buyer shall be obliged to accept and pay for them.

#### **Article 465. Assortment of goods in case of replenishment of short deliveries**

1. Assortment of goods which short delivery is subject to replenishment shall be determined by the agreement of the parties. In the absence of such agreement the supplier shall be obliged to replenish short delivered goods in the assortment established for the period during which the goods were short delivered.

2. Delivery of goods of one name in greater quantity than provided for in delivery contract shall not be counted towards cover of short delivered goods of another name which form the

same assortment and shall be subject to replenishment, except for cases when such delivery was made with the preliminary written consent of the buyer.

#### **Article 466. Acceptance of goods by the buyer**

1. The buyer (consignee) shall be obliged to perform all the necessary actions ensuring acceptance of goods delivered in accordance with supply contract.

2. Goods received by the buyer (consignee) shall be examined by her/him/it within the period, stipulated by the legal acts, supply contract or customary business practice.

The buyer (consignee) shall be obliged to check quantity and quality of accepted goods within the same period of time in order, prescribed by the law, other legal acts, the contract or customary business practice, and to inform the supplier in writing about discovered nonconformities or defects of goods.

3. If the buyer (consignee) receives delivered goods from transport company, he/she/it shall be obliged to check compliance of these goods to information referred to in transport and accompanying documents, and also to accept these goods from transport company, following the rules stipulated by the laws and other legal acts regulating transport activity.

#### **Article 467. Safekeeping of goods which have not been accepted by the buyer**

1. When the buyer (consignee) in accordance with legal acts or supply contract refuses to accept the goods delivered by the supplier, he/she/it shall be obliged to ensure safety of these goods (safekeeping) and inform the supplier immediately.

2. The supplier shall be obliged to take away the goods accepted by the buyer (consignee) for safekeeping or to dispose of them within the reasonable period of time.

If the supplier fails to dispose of these goods within this period, the buyer may sell goods or return them to the supplier.

3. Required expenses incurred by buyer (consignee) due to acceptance of goods for safekeeping, sale of goods or their return to the seller shall be compensated by the supplier.

In this case, proceeds from sale of goods shall be transferred to the supplier after deduction of the amount due to the buyer.

4. When the buyer does not accept goods from the supplier without causes, established by the law, other legal acts or the contract, or refuses to accept them, the supplier may demand from the buyer the payment for the goods.

#### **Article 468. Sampling of goods**

1. Supply contract provides for sampling of goods by the buyer (consignee) at location of the supplier (sampling of goods).

2. If sampling period is not stipulated by the contract, sampling of goods by the buyer (consignee) shall be performed within the reasonable period having received notification of the supplier on readiness of goods.

3. When supply contract stipulates for sampling of goods by the buyer (consignee) at location of the supplier, the buyer shall be obliged to inspect transferred goods at place of their transfer unless otherwise provided for by legal acts or not follow from nature of the obligation.

4. Failure to perform sampling of goods by the buyer (consignee) within the period specified by supply contract, and in the absence of the contract within the reasonable period of time after receipt of the supplier's notification about readiness of goods shall entitle the supplier to refuse from fulfillment of contract or to demand payment for goods.

#### **Article 469. Payment for delivered goods**

1. The buyer shall pay for delivered goods following the procedure and form of payments stipulated by supply contract. If procedure and form of payments were not defined by the agreement of the parties, payments shall be made by means of payment orders.

2. If goods delivery by separate batches is stipulated in the contract, the buyer shall pay for goods after shipment (sampling) of the last part, as otherwise is not established by the contract.

3. When supply contract provides for shipment of goods in parts, payment for goods shall be made by the buyer after shipment (sampling) of the last part, unless otherwise stipulated by the contract.

#### **Article 470. Packing and wrapping materials**

1. Unless otherwise is stipulated by supply contract, the buyer (consignee) shall be obliged to return reusable packing and wrapping materials of delivered goods to the supplier in order and terms stipulated by legal acts.

2. Other packing and wrapping materials of goods shall be returned to the supplier only in cases provided for by the contract.

#### **Article 471. Consequences of supply of goods of improper quality**

1. The buyer (consignee) to which goods of improper quality have been supplied may make claims to the supplier as stipulated by Article 428 of this Code, except for the case when the supplier which has received the notification of the buyer about defects of the delivered goods shall replace goods without delay.

2. The buyer (consignee) which sells delivered goods by retail may demand within the reasonable period of time replacement of goods of improper quality, unless otherwise stipulated by supply contract.

#### **Article 472. Consequences of delivery of incomplete goods**

1. The buyer (consignee) to which goods have been supplied with violation of terms and conditions of supply contract, requirements of legal acts or usual requirements for completeness may make claims to the supplier stipulated by Article 433 of this Code, except for the case when the supplier which has received the buyer's notification about incomplete set of delivered goods shall complete goods without delay or replace them.

2. The buyer (consignee) which sells goods by retail may demand replacement of incomplete goods within the reasonable period of time returned by the consumer on complete goods, unless otherwise stipulated by supply contract.

#### **Article 473. Rights of the buyer in case of short delivery of goods, failure to comply with requirements for removal of defects of goods or additional supply of missing goods**

1. If supplier has failed to deliver quantity of goods, stipulated by the supply contract, or not perform the buyer's claim on replacement of substandard goods or additional supply of missing goods within the fixed period of time, the buyer may acquire short delivered goods from other persons and to charge all necessary and reasonable expenses to the supplier for their acquisition.

Calculation of expenses of the buyer on acquisition of goods from the other persons in cases of short delivery or failure to perform buyer's claims on removal of defects of goods or additional supply of missing goods shall be made according to the rules, provided for by paragraph 1 of Article 477 of this Code.

2. The buyer (consignee) may refuse to pay for substandard and missed goods, and if such goods have been paid for, to demand to refund of paid amount of money pending removal of defects and additional supply of missing goods or their replacement.

#### **Article 474. Penalty for short supply or delay in supply of goods**

Penalty established by the law or the contract for short supply or delay in supply of goods shall be recovered from the date, determined by the contract, till actual performance of the obligation, unless different procedure for the payment of penalty shall be established by the law or the contract.

#### **Article 475. Repayment of similar obligations under several supply contract**

1. When goods of one name are supplied by the supplier to the buyer under several supply contracts and quantity of delivered goods is insufficient for repayment of the supplier's obligations under all contracts, delivered goods shall be counted towards execution of contract, indicated by the supplier during supply of goods or immediately after the supply.

2. If the buyer has paid to the supplier for goods of the same name, received under several supply contracts and amount of payment is insufficient for repayment of the buyer's



obligations under all contracts, paid amount shall be counted towards execution of the contract, indicated by the buyer when goods are paid for or without delay after payment.

3. If the supplier or the buyer did not use the rights granted to them by paragraphs 1 and 2 of this Article, performance of obligations shall be counted towards repayment of the obligations under the contract, if period of execution commenced earlier. If period of execution of obligations under several contracts commenced simultaneously, performance shall be counted in proportion towards repayment of obligations under all contracts.

#### **Article 476. Unilateral repudiation of a contract**

1. Unilateral repudiation of a contract (in full or in part) or unilateral change of this contract shall be allowed in case of material breach of the contract by one of the parties (second part of paragraph 2 of Article 401 of this Code).

2. Breach of the by the supplier may be material in cases of:

1) delivery of goods of improper quality with defects which cannot be removed within the period acceptable for the buyer;

2) repeated breach of terms of goods supply.

3. Breach of contract by the buyer may be material in cases of:

1) repeated breach of payment terms for goods;

2) repeated failure to perform sampling of goods.

4. Other arguments of unilateral repudiation of the contract or its unilateral amendment can be stipulated as agreed by the parties.

5. Supply contract shall be deemed to be amended or terminated since the time of receipt by one party of the notification of the other party about unilateral repudiation of the contract in full or in part, unless different term of termination or amendment of the contract is provided by the notification or defined by the agreement of the parties.

#### **Article 477. Calculation of losses in case of contract termination**

1. If within the reasonable period of time after termination of the contract due to breach of the obligation by the seller the buyer bought goods from another person at higher but reasonable price instead of goods specified by the contract, the buyer may make to the seller a claim for compensation of losses in form of the difference between the contractual price and the price of performed transaction.

2. If within the reasonable period of time after termination of the contract due to breach of the obligation by the buyer the seller sold goods to another person under the reasonable but lower price than stipulated by the contract, the seller may make to the buyer a claim for compensation of losses in form of difference between the contractual price and the price of performed transaction.

3. If after termination of the contract on causes, provided for by paragraphs 1 and 2 of this Article, no transaction has been made instead of terminated contract, and current price is available for these goods, the party may make a claim for compensation of losses in form of difference between the price specified by the contract and current price during termination of the contract.

Price, which is usually charged under comparable circumstances for similar goods in place where goods shall be transferred, shall be recognized as current price. If there is no current price in this place, current price which was used in another place, which applicable to reasonable replacement, with due account of difference in the expenses on the transportation of goods shall be used.

4. Satisfaction of the requirements, provided for by paragraphs 1-3 of this Article, shall not release the party, which has not performed or improperly performed obligation on compensation of other losses caused by the other party, on the basis of paragraph 4 of Article 9 of this Code.

#### **Paragraph 4. Contracting**

##### **Article 478. Contractual agreement**

1. Producer of farm products shall be obliged to transfer farm products, grown (performed ) by it, to producer - individual, making procurements of such products for processing or sale.

2. Rules on supply contract (Articles 458-477 of this Code) are applied to relations by contractual agreement, not settled by the rules of this paragraph.

##### **Article 479. Obligations of the purveyor**

1. Unless otherwise stipulated by the contractual agreement, the purveyor shall be obliged to accept farm products from the producer in place of their location and to ensure their supply

2. In case when farm products are accepted in place of location of the purveyor or in any other place indicated by it, the purveyor may refuse to accept farm products which correspond to terms and conditions of the contractual agreement and which have been transferred to the purveyor within the period of time, specified by the contract.

The purveyor shall be obliged to provide precise definition of product quality in accordance with standards.

3. Contractual agreement may provide for the obligations of the purveyor processing farm products to return to the producer the waste of this processing on demand with payment at the price fixed by the contract.

##### **Article 480. Obligation of producer of farm products**

Producer of farm products shall be obliged to transfer to the purveyor the grown (produced) farm products in the quantity and assortment, provided for by the contractual agreement.

#### **Article 481. Liability of producer of farm products**

Producer of farm products which has failed to perform its obligation or performed them improperly shall bear liability in the presence of its fault.

#### **Paragraph 5. Power supply**

#### **Article 482. Energy supply contract**

1. Under energy supply contract power supply organization shall be obliged to transmit power to the user (consumer) through connected network, while the user shall be obliged to pay for accepted power, and to observe terms of its consumption, provided for by the contract, and to ensure safety operation of its electrical networks and working order of devices and equipment use and related to power consumption.

2. Energy supply contract is public (article 387 of this Code).

3. Terms of energy supply contract, binding on the parties, are determined in accordance with this Code and other legal acts.

#### **Article 483. Conclusion and prolongation of energy supply contract**

1. The power supply contract shall be concluded by the energy supplying organization with the subscriber if the latter has the necessary equipment connected to the power transmitting organization's networks in accordance with the procedure established by the legislation of the Republic of Kazakhstan.

2. The contract shall be deemed concluded from the moment of the first actual connection of the subscriber to the connected network in accordance with the established procedure.

Unless otherwise stipulated by the agreement of the parties, such contract shall be deemed to be concluded for an indefinite period of time and may be changed or terminated on the grounds provided by Article 490 of this Code.

3. Energy supply contract shall be deemed to be prolonged for the same period and on the same conditions, if before the expiry of its validity term neither party states about its termination or amendment. If the contract is prolonged for a new term, its conditions can be amended as agreed by the Parties.

4. If one of the parties of the contract has made a proposal on conclusion of a new contract, relations between the parties shall be regulated by the contract concluded earlier before a new contract will be concluded.

Footnote. Article 483 as amended by the Law of the Republic of Kazakhstan No. 376 dated 08.01.2003; No. 241-VI dated 02.04.2019 (shall be enforced upon expiration of ten calendar days after the day of its first official publication).

#### **Article 484. Quantity of power**

1. Power supply organization shall be obliged to transmit power to the user through attached network in quantity provided for by the contract and following conditions of transmission agreed by the parties. Quantity of power transmitted to the user and used by him/her/it shall be estimated in accordance with data of accounting of its actual consumption.

2. Energy supply contract may provide for the right of the user to change quantity of received power, fixed by the contract, subject to compensation of expenses incurred by power supply organization due to transmission of power in quantity which is not stipulated by the contract.

3. When individual using power for domestic consumption acts as user under energy supply contract, he/she/it may use power in required quantity. Quantity of power transmitted by power supply organization and accepted by the user shall be determined by metering devices' indicators, and if they are absent or in case of their temporal failure - by means of calculation.

Footnote. Article 484 as amended by the Law of the Republic of Kazakhstan No. 81-V dated 06.03.2013 (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 485. Consequences of breach of conditions of contract on quantity of power**

If power supply organization supplied less power to user through connected network, than established by the contract, rules, stipulated by Article 419 of this Code shall be applied unless otherwise provided by the legal acts or not follow from the nature of liability.

#### **Article 486. Quality of power**

1. Quality of power transmitted by power supply organization shall correspond to the requirements established by state standards and other regulatory documents or stipulated by energy supply contract.

2. If power supply organization breaches the requirements on quality of power, rules, stipulated by Article 491 of this Code are applied, unless otherwise provided by the legal acts, contract or not follow from the nature of liability.

Footnote. Article 486 as amended by the Law of the Republic of Kazakhstan No. 31-V dated 10.07.2012 (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 487. Obligations of user to maintain and operate networks, instruments and equipment**

1. The user shall be obliged to ensure proper technical condition and safety of operated electric power networks, instruments and equipment, to observe conditions of power consumption, and also immediately inform power supply organization about accidents, fires and troubles with power metering instruments and about other breaches arising during power use.

2. If individual using power for domestic consumption acts as user under energy supply contract, obligation on ensure of proper technical condition and safety of electric power networks, and also of power metering instruments shall be discharged by power supply organization, unless otherwise stipulated by the law and other legal acts.

3. Requirements for technical condition and operation of electric power networks, instruments and equipment shall be defined by the law.

4. The user shall be obliged to access employees of power supply organizations to controlling devices of technical state and safety of operating power networks, devices and equipment. Procedure for monitoring of their observance is determined by the legislation.

#### **Article 488. Payment for power**

1. The user shall pay for quantity of power, actually accepted by him/her/it, in accordance with data of metering devices, and if they are absent or in case of their temporal breakdown - by calculation, except for cases of usage of automated system of power commercial metering.

2. Procedure for payments for power shall be determined by the law or by the agreement of the parties.

**Footnote. Article 488 as amended by the Law of the Republic of Kazakhstan No. 25-V dated 04.07.2012 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 489. Transfer of power to another person by the user**

1. The user may transmit power, accepted by he/she/it from power supply organization through the attached network, to another person (subuser) only with the consent of power supply organization.

2. Rules of this paragraph are applied to the contract on transfer of power by the user to the subuser unless otherwise stipulated by the legislative acts or contract.

3. The user is responsible to the power supply organization during transfer of power to the subuser unless otherwise provided by the legislative acts.

#### **Article 490. Amendment and termination of the contract**

1. An interval in supply of power, termination or restriction of power supply shall be allowed by agreement between the parties, except for the cases where unsatisfactory condition of the user's power plant, certified by state power supervision body, endangers levels and

safety of individuals. Power supply organization shall inform the user about interruption, termination or restriction of power supply.

2. Termination or restriction of power supply without the consent of a subscriber and without its notification, but with the relevant notification thereof shall be permissible if it is necessary to take urgent measures on prevention or elimination of emergency in the system of power supply organization.

3. Interval in power supply, termination or restriction of power supply for productions with continuous cycle is not allowed and regulated by the legislation.

4. If individual using power for domestic consumption acts as user under contract of power supply, he/she/it may terminate the contract unilaterally, if he/she/it informs power supply organization about this and pays for used power in full.

5. If individual using power for domestic consumption acts as user under the contract of power supply, power supply organization may withhold performance of the contract unilaterally due to failure to pay for used power by the user subject to notification of the user not later than month prior to contract performance.

#### **Article 491. Liability under the contract of power supply**

1. In cases of failure to perform obligations or improper performance of obligations under the contract of power supply, the user and power supply organization shall be obliged to compensate the real damage caused by this (paragraph 4 of Article 9 of this Code).

2. If in the result of regulation of conditions of power consumption on the basis of the law or other legal acts an interval has been made in supply of power to the user, power supply organization shall bear liability for failure to perform contractual obligations or for their improper performance in the presence of his/her/its guilt.

#### **Article 492. Application of rules for power supply to other contracts through connected network**

1. Rules provided for by this paragraph shall be applicable to the relations related to supply of thermal power through attached network, unless otherwise stipulated by the law.

2. Rules of this paragraph shall be applied to the relations related to supply of gas, oil and oil products, water and other goods, unless otherwise stipulated by the law, contract or unless the contrary follows from nature of the obligation.

#### **Paragraph 6. Sale of enterprise**

#### **Article 493. Sale contract of enterprise**

1. Under the sale contract of enterprise the seller shall transfer an asset complex into the buyer's ownership (Article 119 of this Code), except for rights and obligations, which cannot be transferred to other persons.

2. Rights and obligations related to employees of the enterprise are transferred from the seller to the buyer in accordance with the procedure specified in labor legislation of the Republic of Kazakhstan.

3. Right of use of brand name, trademarks, service marks and other brands of the seller and its products, performed work or services, and also owned by the seller on the basis of license to use identity brands shall be transferred to the buyer unless otherwise stipulated by the contract.

4. Rights, received on the basis of special permit (license) on the appropriate activity, shall not be transferred to the buyer of the enterprise unless otherwise stipulated by the legislative acts. Introduction of liabilities, which cannot be performed by the buyer because he /she/it does not have special permit (license), into the enterprise, transmitted by the contract, does not exempt the seller from corresponding liabilities owed to creditors. The seller and the buyer are jointly responsible to creditors for default in the performance of obligation.

5. Features of sale of state enterprise, where the enterprise acts as single property complex, shall be determined by the legislative act of the Republic of Kazakhstan on state property.

**Footnote. Article 493 as amended by the Law of the Republic of Kazakhstan No. 253 dated 15.05.2007, No. 414-IV dated 01.03.2011 (shall be enforced from the date of its first official publication).**

#### **Article 494. Form of sale contract of enterprise**

**Footnote. Heading of Article 494 as amended by the Law of the Republic of Kazakhstan No. 421-IV dated 25.03.2011 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

1. Sale contract of enterprise shall be concluded in writing by drawing up one document to be signed by the parties, having attached documents, specified in paragraph 2 of Article 495 of this Code.

**2. Excluded by the Law of the Republic of Kazakhstan No.421-IV dated 25.03.2011 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

**Footnote. Article 494 as amended by the Law of the Republic of Kazakhstan No. 421-IV dated 25.03.2011 (shall be enforced upon the expiry of ten calendar days after its first official publication).**

#### **Article 495. Structure and corporate valuation of the marketable enterprise**

1. Structure and cost of the enterprise, which shall be sold, are determined by mutual agreement of the parties unless otherwise provided for legislative acts.

2. Following shall be made and considered by the parties before signing of the contract: inventory report, balance sheet report, audit report of audit organization on structure and cost

of the enterprise, and also list of all debts (liabilities), included into the enterprise, with indication of creditors, nature, amount and terms of their requirements.

Property, rights and obligations, specified in mentioned documents, shall be transferred by the seller to the buyer, unless otherwise provided for by the Article 493 of this Code and not established by the contract.

**Footnote. Article 495 was amended by the Law of the Republic of Kazakhstan No. 139 dated May 5, 2006 (enforcement order see in article 2 of the Law of the Republic of Kazakhstan No.139).**

#### **Article 496. Rights of creditors in case of enterprise sale**

1. Creditors, for liabilities, included in the enterprise to be sold shall be notified about its sale by one of the parties of sale contract of enterprise before it is transferred to the buyer.

2. Creditor which did not informed the seller or the buyer about his/her/it consent with transfer of the debt may demand, during three months since the day of receipt of the notification about the sale of the enterprise, either termination or prior performance of obligation and compensation of losses by the seller , or e recognition of sale contract of the enterprise as invalid in full or in part.

3. Creditor which was not notified about the sale of the enterprise in order, prescribed by paragraph 1 of this Article, may bring an action to satisfy claims, provided for by paragraph 2 of this Article, during the year since the day when he/she/it knew about transfer of the enterprise by the seller to the buyer.

4. After transfer of the enterprise to the buyer the seller and the buyer shall bear joint and several liabilities for debts included into transferred enterprise and transferred to the buyer without the consent of the creditor.

#### **Article 497. Transfer of the enterprise**

1. Enterprise shall be transferred by the seller to the buyer under deed of transfer, which contains data on structure of the enterprise and on notification of creditors about sale of the enterprise, and also information about revealed shortcomings of the transferred property and list of assets, which transfer is impossible due to its loss.

2. Preparation of the enterprise for transfer, including drawing up of deed of transfer and presentation of this deed for signing is obligation of the seller and shall be made at his/her/it expense, unless otherwise stipulated by the contract.

3. Enterprise shall be deemed to be transferred to the buyer since the day of signing the deed of transfer by both parties.

Since that period of time the risk of accidental destruction or damage of property within the enterprise shall pass to the buyer.

#### **Article 498. Transfer of title to the enterprise**



Footnote. Heading of Article 498 as amended by the Law of the Republic of Kazakhstan No. 421-IV dated 25.03.2011 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

1. Title to the enterprise subject to state registration shall pass to the buyer since time of state registration of this title. Rights for other property shall be transferred from the moment of signing of deed of transfer by the both parties.

2. Excluded by the Law of the Republic of Kazakhstan No.421-IV dated 25.03.2011 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

3. When the contract provides for the preservation of the seller's title to the enterprise, transferred to the buyer, until the payment for the enterprise or occurrence of other circumstances, the buyer may dispose, before transfer of title to it, of the assets and rights forming the transferred enterprise to the extent this is necessary for the purposes for which the enterprise has been acquired.

Footnote. Article 498 as amended by the Law of the Republic of Kazakhstan No.421-IV dated 25.03.2011 (shall be enforced upon the expiry of ten calendar days after its first official publication).

#### **Article 499. Consequences of transfer and acceptance of the enterprise with shortcomings**

1. Consequences of transfer by the seller and of acceptance by the buyer under the deed of transfer of the enterprise which structure does not conform to quality of transferred assets, specified by sale contract of the enterprise, shall be determined on the basis of the rules, provided for in Articles 413-415, 419, 422, 428, 432 of this Code, unless otherwise stipulated by the contract and paragraphs 2-4 of this Article.

2. If enterprise has been transferred and accepted under the deed of transfer, which contains information about discovered shortcomings of the enterprise and lost assets (paragraph 1 of Article 497 of this Code), the buyer may demand a corresponding reduction of purchase price of the enterprise, unless the right to make other claims in such cases is provided for by the sale contract of the enterprise.

3. The buyer may demand the reduction of purchase price in case of transfer of debts (liabilities) of the seller within the enterprise, which have not been indicated in the sale contract of the enterprise or in the deed of transfer, unless the seller proves that the buyer has known about such debts (liabilities) during conclusion of the contract and transfer of the enterprise.

4. The buyer having received the notice about shortcomings of the property, transferred within the enterprise or in the absence of particular types of property subject to transfer may replace the property of improper quality or present the missing property to the buyer without delay.

5. The buyer may demand termination or change of sale contract of the enterprise and return of what was performed under the contract, if it was found out that the enterprise because of its shortcomings, for which the seller is responsible, does not fit for the purposes specified in sale contract, and these shortcomings have not been removed by the seller in terms and in order and terms fixed in accordance with this Code, legal acts or the contract or it is impossible to remove such shortcomings.

#### **Article 500. Application of rules on consequences of invalidation of transactions and on change or termination of the contract to sale contract of the enterprise**

Rules of this Code on consequences of invalidation of transactions and on change or termination of sale contract, providing for return or recovery of the received under the contract from one party or from both parties, shall be applied to sale contract of the enterprise, if such consequences do not breach the rights and legally protected interests of creditors of the seller and the buyer and other individuals and do not contradict to public interests.

#### Chapter 26. Barter

#### **Article 501. Barter contract**

1. Under the barter contract each party shall transfer one commodity into the ownership of the other party in exchange for the other commodity.

2. Rules for purchase and sale shall be applied to barter contract, unless this contradicts rules of this Chapter and nature of barter. In this case each party shall be recognized as the seller of goods which shall be transferred and as the buyer of goods which shall be accepted.

3. Provisions, stipulated by this chapter, shall be applied to exchange of rights (works, services) unless otherwise provided for legislative acts and does not follow from the nature of the corresponding obligations.

#### **Article 502. Prices and expenses under barter contract**

1. Unless the contrary follows from barter contract, goods subject to exchange shall be of equal value, while the expenses on their transfer and acceptance shall be incurred in each case by the party which bears the respective obligations.

2. If in accordance with barter contract exchanged goods are recognized as of equal value, the party which is obliged to transfer goods, which price is below the price of goods, offered in exchange, shall pay the difference in prices immediately before or after performance of the obligation on transfer of goods, unless different procedure for payment is provided for by the contract.

#### **Article 503. Performance of mutual obligations on transfer of goods under barter contract**

If in accordance with barter contract periods of transfer of exchanged goods do not coincide, rules for performance of mutual obligations (Article 284 of this Code) shall be applied to performance of obligations on transfer of goods by the party which shall pass the goods after transfer by the other party.

#### **Article 504. Transfer of title to exchanged goods**

Unless otherwise stipulated by the law or barter contract, title to exchanged goods shall be transferred to the parties acting as buyers under the barter contract after performance of obligation on transfer of goods by both parties.

#### **Article 505. Liability for withdrawal of goods acquired under barter contract**

The party from which the third party has withdrawn the goods acquired under the barter contract may, in the presence of causes, provided for by Article 414 of this Code, demand that the other party return goods received by the latter in exchange, and if it is impossible - its cost

### **Chapter 27. Donation**

#### **Article 506. Donation contract**

1. Under donation contract one party (donor) transfer or shall transfer an item into ownership or property right (claim) to himself/herself/itself or to a third party free of charge to the other part (donee) and exempt or shall exempt this party from property obligation to himself/herself/itself or to the third party.

In case of reciprocal transfer of item or right or reciprocal obligation donation contract shall be considered as null and void. Rules provided for by paragraph 2 of Article 160 of this Code shall be applied to such contract.

2. Promise to transfer an item or any property right free of charge or exempt anybody from property obligation (promise of donation) shall be recognized as donation contract and bind individuals who promised, if the latter was executed in proper form (paragraph 2 of Article 508) and contains clearly expressed intention to transfer item or right in future free of charge or to exempt from property obligation.

Promise to donate all property or its part without reference to specific object of donation in form of item, right or exemption from obligation shall be null and void.

3. Contract, stipulating transfer of gift to the donee after death of the donor, shall be null and void.

Rules of this Code on inheritance shall be applied to this kind of donation.

**Footnote. Article 506 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 507. Donee's refusal to accept the gift**

1. The donee may refuse the gift at any time before it is transferred to him/her/it. In this case, donation contract shall be deemed to be terminated.

2. If donation contract has been concluded in writing, refusal the gift shall also be made in writing. If donation contract has been registered, refusal the gift shall also be subject to state registration.

3. If donation contract has been concluded in writing, the donor may demand that the donee shall compensate for the real damage incurred by refusal to accept the gift.

**Footnote. Article 507 as amended by the Law of the Republic of Kazakhstan No.421-IV dated 25.03.2011 (shall be enforced upon the expiry of ten calendar days after its first official publication).**

### **Article 508. Form of donation contract**

1. Donation, accompanied by transfer of gift to the donee, may be performed orally, except for the cases, provided for by paragraphs 2 and 3 of this Article. The gift shall be presented by transfer, symbolic transfer (transfer of keys, etc.) or transfer of entitlement documents.

2. Donation contract of movables shall be executed in writing in cases when:

- 1) the donor is legal entity and value of the gift exceeds ten monthly calculation indexes;
- 2) the contract contains promise of donation in future.

In cases provided for by this paragraph, the donation contract executed orally shall be null and void.

**3. Excluded by the Law of the Republic of Kazakhstan No.421-IV dated 25.03.2011 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

**Footnote. Article 508 as amended by the Laws of the Republic of Kazakhstan No.421-IV dated 25.03.2011 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 49-VI dated 27.02.2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 509. Donation Prohibition**

1. Donation shall not be allowed, except for common gifts, which value does not exceed ten monthly calculation indexes, established by the legislative acts:

1) on behalf of minors and individuals who has been declared legally incapable and by their legal representatives;

2) employees of medical, educational institutions, social protection institutions and other similar institutions by citizens who are treated, maintained or educated in them, spouses and relatives of these citizens.

2. It shall not be allowed to donate gifts to civil servants and other persons who have undertaken anti-corruption restrictions in accordance with the Law of the Republic of

Kazakhstan "On Combating Corruption", as well as to their family members for actions (inaction) of civil servants and other persons who have undertaken anti-corruption restrictions, in favor of the donor, if such actions are within the official powers of these persons or these persons, by virtue of their official position, can contribute to such actions (inaction).

**Footnote. Article 509 as amended by the Law of the Republic of Kazakhstan dated 06.10.2020 No. 365-VI (shall be enforced upon expiration of ten calendar days after the date of its first official publication).**

#### **Article 510. Restriction of donation**

1. Legal entity owning an item by the right of economic or operational management may donate it with the consent of the owner, unless otherwise stipulated by the law. These restrictions shall not cover usual gifts, which value does not increase amount of ten monthly calculated indexes, established by the legislative acts.

2. Property which is in common joint ownership may be donated by agreement of all participants of joint ownership with the observance of the rules, specified by Article 220 of this Code.

3. Donation of donor's right to make claims to a third party shall be performed with the observance of the rules, stipulated by Articles 339-343, 345, 346 of this Code.

4. Donation by means of execution of the donee's obligation to third party shall be made with the observance of the rules, provided for by paragraph 1 of Article 276 of this Code.

Donation by means of transfer by the donor of the donee's debt to a third party shall be made with the observance of the rules, specified by Article 348 of this Code.

5. Power of attorney for execution of donation by the representative, in which a donee is not specified and object of donation is not indicated, shall be null and void.

**Footnote. Article 510 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated 27.02.2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 511. Refuse to perform donation contract**

1. The donor may refuse to perform the contract containing the promise on transfer of item or right to the donee in future or to exempt the donee from property obligation, if after conclusion of the contract the property or family status or state of health of the donor has changed so that performance of the contract will lead to substantial reduction of life standard under new conditions.

2. The donor may refuse to perform the contract containing the promise on transfer of item or right to the donee in the future or to exempt the donee from property obligation on grounds which entitle him to cancel donation (paragraph 1 of Article 512 of this Code).

3. Refusal of the donor to perform donation contract on grounds, stipulated by paragraphs 1 and 2 of this Article, shall not entitle the donee to claim damages.

#### **Article 512. Cancellation of donation**

1. The donor may cancel donation, if the donee attempted his/her/it life, life of any of his/her/it family members or close relatives or intentionally injured the donor.

In case of intentional deprivation of life of the donor by the donee the right to claim ademption in court shall belong to the donor's successors.

2. The donor may demand judicially cancellation of donation, if the donee's treatment of the gift which has a great intangible value for the donor creates a threat of its irrevocable loss.

3. Upon the request of an interested person, the court may cancel a donation made by an individual entrepreneur or a legal entity in violation of the provisions of the Law of the Republic of Kazakhstan "On Rehabilitation and Bankruptcy" at the expense of funds associated with his entrepreneurial activities, during the year preceding the initiation of a case against him bankruptcy and (or) rehabilitation.

4. Donation contract may provide for the donor's right to cancel donation, if he/she/it outlives the donee.

5. In case of cancellation of donation the donee shall be obliged to return the gift, if the latter had been preserved in kind during cancellation of donation or compensate its cost by market value in case of its alienation after receipt of notification on cancellation of donation.

**Footnote. Article 512 as amended by the Law of the Republic of Kazakhstan No.177-V dated 07.03.2014 (shall be enforced upon expiry of ten calendar days after its first official publication); No.49-VI dated 27.02.2017 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 27.12.2019 No, 290-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication);**

#### **Article 513. Cases when refusal to perform donation contract and cancellation of donation are impossible**

Rules for refusal to perform donation contract (Article 511 of this Code) and for cancellation of donation (Article 512 of this Code) shall not be applied to common gifts, which value is not more than ten monthly calculation indexes, established by the legislative acts (paragraph 1 of Article 510 of this Code).

#### **Article 514. Consequences of damages infliction due to defect of gift**

The injury inflicted to the donee's life or health and property due to the defects of the gift shall be compensated by the donor in accordance with the rules, provided for by Chapter 47

of this Code, if it is proved that these defects had arisen before transfer of donated item to the donee, and do not relate to obvious shortcomings and the donor did not inform the donee about them, though he knew about them.

#### **Article 515. Legal succession in case of donation promise**

1. Rights of the donee to whom a gift has been promised under the donation contract shall not be transferred to his/her/its heirs (successors), unless otherwise stipulated by the donation contract.

2. Obligations of the donor who promised donation shall pass to his/her/its heirs (successors), unless otherwise stipulated by the donation contract.

#### **Article 516. Endowment**

1. Endowment is donation of item or right pro bono publico.

Endowments may be made to citizens, medical and fostering institutions, institutions of social protection and other analogous institutions, charitable, scientific, and educational institutions, funds, museums and other institutions of culture, social and religious organizations, and also to the state and other subjects of civil law indicated in Articles 111 and 112 of this Code.

2. No permission or consent shall be required for the acceptance of endowment.

3. Endowment of property to citizen shall be stipulated, while endowment of property to legal entity may be stipulated by the donor by the use of this property according to definite purpose. In the absence of such condition the endowment of property to an individual shall be considered as donation, while in other cases the endowed property shall be used by the donee in accordance with property purpose.

Legal entity which accepts endowment which will be used for a definite purpose shall maintain a separate record of all transactions involved in the use of the endowed property.

4. If use of the endowed property in accordance with the purpose indicated by the donor is impossible due to the changed circumstances, it may be used according to another purpose only with the consent of the donor, while in cases of the death of the donor-individual or of liquidation of legal entity only with the consent of the donor and by court decision.

5. Use of endowed property not in accordance with the purpose indicated by the donor or change of this purpose with contravention of the rules, provided for by paragraph 4 of this Article, shall entitle the donor, his/her/its heirs or any other successor to demand cancellation of the endowment.

6. Articles 512 and 515 of this Code shall not be applied to endowment.

#### **Chapter 28. Rent**

Footnote. Heading of chapter 28 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated 27.02.2017 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

## **Paragraph 1. General provisions**

### **Article 517. Rent contract**

1. Under the rent contract one party (rent recipient) shall transfer property to the other party (rent payer) into the ownership, whereas the rent payer shall pay periodically rent to the recipient in form of definite amount of money or to provide money on its maintenance in different form.

2. Under the rent contract it is possible to establish the obligation on payment of rent on permanent basis (permanent rent) or for the entire period of life of rent recipient (life annuity) . Life annuity may be established on terms of permanent maintenance of individual with dependence.

### **Article 518. Requirements to rent**

Rent contract shall be subject to notarization.

Encumbrance of real estate with the rent shall be subject to state registration in accordance with the legislation on state registration of rights on the real estate.

Non-observance of mentioned requirements leads to voidness of rent contract.

Footnote. Article 518 as amended by the Law of the Republic of Kazakhstan dated No.49-VI27.02.2017 (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).

### **Article 519. Alienation of property under rent payment**

1. Property which shall be alienated on rent disbursement may be transferred by the rent recipient to the ownership of the rent payer for charge or free of charge.

2. If rent contract provides for transfer of property for charge, rules for purchase and sale ( Chapter 25 of this Code) shall be applied to relations of the parties involved in transfer and payment, and if such property is transferred free of charge, rules for donation contract ( Chapter 27 of this Code) shall be unless otherwise stipulated and do not contradict the nature of the rent contract.

### **Article 520. Encumbrance of real estate with rent**

1. The rent shall encumber the land plot, enterprise, building, structure or any other real estate, transferred under its payments. In case of alienation of such property by the rent payer, his/her/it obligations under the rent contract shall pass to the buyer of property.



2. Individual who transferred real estate encumbered with rent, mentioned in paragraph 1 of this Code, to ownership of another individual shall bear subsidiary liability (Article 357 of this Code) on demand of the rent recipient which have arisen in connection with the breach of the rent contract unless present Code, other law or contract provide joint and several responsibility under this obligation.

#### **Article 521. Security of rent payment**

1. In case of transfer of land plot or any other immovable property under rent payment, the rent recipient shall acquire the right of pledge to this property as security for the rent payer's obligation.

2. Essential condition of the contract, stipulating transfer of monetary amount or other movables for payment of rent is condition, establishing obligation of rent payer to ensure performance of its obligations (Article 292 of this Code) or to insure liability risk for failure to perform or improper performance of these obligations in favor of rent recipient.

3. If the rent payer fails to perform obligations, provided for by paragraph 2 of this Article , and also in case of loss of security or deterioration of its conditions due to circumstances for which the rent recipient is not responsible, the rent recipient may terminate rent contract and claim damages caused by termination of the contract.

#### **Article 521-1. Termination of rent contract on demand of rent recipient**

1. In case of material violation of contractual terms by the rent payer, the rent recipient shall be entitled to require for rent repayment from rent recipient on terms, stipulated by article 528 of this Code or termination of the contract.

If rent payer attempted the life of the rent recipient or intentionally inflict injuries, the rent recipient shall be entitled to request for termination of contract and compensation of damages. In case of intentional deprivation of life of rent recipient by the rent payer, the right to terminate the contract and to compensate damages belongs to heirs of the rent recipient.

2. If dwelling or other property was alienated free of charge for payment of the rent, the rent recipient is entitled to request for return of this property with offset of its cost on account of repurchase price of the rent in case of material violation of contractual terms.

**Footnote. Chapter 28 is supplemented by the article 521-1 in accordance with the Law of the Republic of Kazakhstan No. 49-VI dated 27.02.2017 (shall be enforced upon the expiry of ten calendar days after its official publication).**

#### **Article 522. Liability for delayed rent payment**

The rent payer shall pay to the recipient an interest, stipulated by Article 353 of this Code, unless different amount of interest is specified by the rent contract for delayed rent payment.

#### **Paragraph 2. Permanent rent**

### **Article 523. Permanent rent recipient**

1. Only individuals, and non-profit organizations may be permanent rent recipient, if this corresponds to aims of their activity.

2. Rights of the rent recipient may be transferred under the permanent rent contract to individuals, referred to in paragraph 1 of this Article, by means of assignment of claim and descend or by legal succession in case of reorganization of legal entities, unless otherwise stipulated by the law or the contract.

### **Article 524. Form and amount of permanent rent**

1. Permanent rent shall be paid in monetary terms in the amount fixed by the contract.

2. Permanent rent contract may provide for the payment of rent by means of presentation of items, performance of works or rendering of services which correspond to amount of the rent in value terms.

3. Unless otherwise stipulated by the contract, amount of paid rent shall be changed in proportion to change of monthly calculation index, established by the legislative acts.

### **Article 525. Terms of permanent rent payment**

Unless otherwise stipulated by the contract, permanent rent shall be paid at the end of each calendar quarter.

### **Article 526. Payer's Right on repayment of permanent rent**

1. Payer of permanent rent may refuse to make further payment of rent by means of its repayment.

2. Such refusal shall be valid, provided that it has been made by the rent payer in written form within three months before cessation of rent payment or for longer periods fixed by permanent rent contract. In this case, obligation on rent payment shall not be terminated till receipt of the entire amount of repayment by the rent recipient, unless different repayment procedure is stipulated by the contract.

3. Terms of the contract concerning rent payer's refusal to use the right of repayment shall be null and void.

**Footnote. Article 526 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 527. Repayment of permanent rent on demand of the rent recipient**

Permanent rent recipient may demand the repayment of rent by the payer in cases when:

- 1) the rent payer delayed its payment for more than one year, unless otherwise stipulated by the permanent rent contract;
- 2) the rent payer violated obligations of security rent payment (Article 521 of this Code);
- 3) the rent payer has been recognized as insolvent or other circumstances have appeared to testify the fact that rent will not be paid out in the amount and within the period fixed by the contract;
- 4) real estate, transferred against the rent payment, was transferred under common property or was divided among several persons;
- 5) in other cases provided for by the contract.

#### **Article 528. Redemption price of permanent rent**

1. Redemption of permanent price in cases, provided for by Articles 526 and 527 of this Code, shall be made at price fixed by the permanent rent contract.
2. In the absence of clause on redemption price in the contract, under which property has been transferred for charge on payment of permanent rent, redemption shall be made at price which correspond to the annual amount of rent subject to payment.
3. In the absence of clause on redemption price in the contract, under which property has been transferred for rent payment free of charge, redemption price shall include price of transferred property in addition to the annual amount of rental payments.

#### **Article 529. Risk of accidental loss or accidental destruction of property transferred on payment of permanent rent**

1. Risk of accidental loss or accidental destruction of the property, transferred free of charge on payment of permanent rent, shall be borne by the rent payer.
2. In case of accidental loss or accidental destruction of the property, transferred for charge on payment of permanent rent, the payer may demand cessation of obligation of rent payment or charge of conditions of its payment.

#### **Paragraph 3. Life annuity**

#### **Article 530. Life annuity recipients**

1. Life annuity may be established for the period of life of the individual who conveys property on rent payment or for the period of life of another individual indicated by the former individual.
2. It shall be permissible to introduce life annuity in favor of some individuals whose shares are regarded as equal, unless otherwise stipulated by the life annuity contract.  
In case of death of one of the rent recipients his/her/it share in the right to rent shall pass to the rent recipients who outlived him/her/it, unless life annuity contract provides otherwise, and in case of death of the last recipient the rent payment obligation shall be ceased.

3. Contract, establishing life annuity in favor of the individual who had died by the time of contract conclusion shall be null and void.

**Footnote. Article 530 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 531. Amount of life annuity**

1. Life annuity shall be defined by the contract as amount of money periodically paid out to the rent recipient during his/her/its life. If parties concluded agreement for life estate, estimated money value of such allowance shall be determined in the contract.

2. Unless otherwise provided by the contract of life annuity, amount of paid rent per month shall be at least minimum salary, established by the legislative acts.

#### **Article 532. Payment terms of life annuity**

Unless otherwise stipulated by the contract, life annuity shall be paid at the end of each calendar month.

#### **Article 533. Cancellation of life annuity contract on demand of rent recipient**

**Footnote. Article 533 is excluded by the Law of the Republic of Kazakhstan dated 27.02.2017 No. 49-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

#### **Article 534. Risk of accidental destruction of property transferred under rent payment**

Accidental destruction or accidental damage of property transferred under payment of life annuity shall not exempt the rent payer from obligation to pay it on the terms, provided for by the contract.

#### **Paragraph 4. Life estate**

##### **Article 535. Contract of life estate**

1. Under the contract of life estate the rent recipient-individual shall transfer the real estate into the ownership of the rent payer, who will be obliged to provide life estate of the individual and (or) the third person indicated by him/her/it.

2. Rules for life estate shall be applicable to the contract of life estate with dependency, unless otherwise stipulated by the rules of this paragraph.

##### **Article 536. Duty on provision of life estate**

1. Obligation of the rent payer to provide life estate may include satisfaction of needs in dwelling, food and clothing, care and necessary assistance.

The contract may also provide for the payment of funeral services.

2. The contract shall estimate the value of the entire scope of life estate. In this case, the value of the whole scope of monthly maintenance may not be less than two minimum amounts of salary, established by the legislative acts.

3. Settling the dispute between the parties on the scope of maintenance to be provided to an individual, the court shall be guided by the principles of integrity and reasonableness.

#### **Article 537. Replacement of life estate on periodical payments**

The contract of life estate may provide for possible replacement of provision of life estate in kind on periodical monetary payments during the life of the individual.

Article 538. Alienation and use of property transferred for life estate

1. The rent payer may alienate, put in pledge or in any other way encumber real estate, transferred to him/her/it as security of life estate, only with the preliminary consent of the rent recipient.

2. The rent payer shall be obliged to take necessary measures so that use of specified property during the period of provision of life estate shall not reduce the value of this property more than cost of its natural wear and tear.

#### **Article 539. Termination of life estate**

1. Obligation of life estate shall be terminated by death of the rent recipient.

2. In case of material breach of obligations by the rent payer the rent recipient may demand the return of real estate, transferred as security of life state or repayment of redemption price on terms, prescribed by Article 528 of this Code. In this case, the rent payer may not claim compensation for the expenses incurred due to maintenance of the rent recipient.

### **Chapter 29. Property lease (lease)**

#### **Paragraph 1. General provisions**

#### **Article 540. Tenancy Agreement**

1. Under the tenancy agreement (rent) the lessor shall provide property to the leaseholder for charge in temporary possession and use.

2. Leaseholder shall be entitled to dispose with leased property in cases and order, stipulated by this Code.

3. Leasing, rent contracts and also other kinds of contracts, related to transfer of property for temporary use at charge, are related to tenancy agreements.

## **Article 541. Objects of lease**

1. Land plots and other separate natural objects, enterprises and other property complexes, buildings, structures, equipment, transport vehicles and other things, which do not forfeit their natural properties during their use (inconsumable) cannot be transferred on lease.

2. Objects of lease can also be land use right, right of subsurface use and other proprietary rights, unless otherwise provided for by legal acts.

3. Legal acts can establish types of property which cannot be transferred on lease or can be leased with restriction.

4. Legal acts of the Republic of Kazakhstan can establish features of property lease of dwelling, land plots, subsoil plots and other separate natural objects.

5. Features of lease of state property are established by the legal acts of the Republic of Kazakhstan on state property.

6. Features of lease of state property on the basis of public and private partnership agreement, including concession agreement, are established by the legal acts of the Republic of Kazakhstan on public and private partnership and on concession.

**Footnote. Article 541 as amended by the Law of the Republic of Kazakhstan No. 414-IV dated March 1, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 131-V dated April 4, 2013 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 380-V dated October 31, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Article 542. Terms of tenancy contract**

Data allowing establishment of property, which shall be transferred to lessee as lease object, shall be indicated in tenancy contract.

In case of absence of such data in the contract, conditions on the object, which shall be transferred to property lease, shall be considered as not agreed by the parties, and the contract as unconcluded.

## **Article 543. Lessor**

The right of property lease shall be owned by its owner.

Lessors may also be represented by individuals who are authorized to transfer property on lease by law or by the owner.

## **Article 544. Form of lease contract**

1. Lease contract for a term of more one year shall be concluded in writing, and if at least one of the parties is represented by legal entity lease contract shall be concluded in writing, regardless of its term.

2. Excluded by the Law of the Republic of Kazakhstan No.421-IV dated 25.03.2011 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

3. Lease contract between individuals can be concluded orally for the period up to one year inclusive.

4. Lease contract which provides for transfer of the title to property to the leaseholder shall be concluded in form stipulated for the contract of sale of such property.

Footnote. Article 544 as amended by the Law of the Republic of Kazakhstan No. 421-IV dated 25.03.2011 (shall be enforced upon the expiry of ten calendar days after its first official publication).

#### **Article 545. Validity term of the lease contract**

1. The lease contract shall be concluded for a period to be defined by the contract.

2. If the period of lease is not defined by the contract, the lease contract shall be deemed to be concluded for an indefinite period.

Each party shall be entitled to refuse at any time from the contract having notified the other party before the three months - in case of real estate lease - one month, unless otherwise established by the legal acts or the contract.

Legal acts may provide for a maximum period (deadline) of the contract for particular types of lease, and also for lease of particular types of property. In these cases, if term of lease is not fixed by the contract and neither party refused from it before the expiry of the maximum period, fixed by the law, the contract shall be terminated upon the expiry of the deadline.

The lease contract concluded for a period exceeding maximum period shall be deemed to be concluded for a period equal to the maximum (limit).

#### **Article 546. Payment by lease contract**

1. Payment for use of leased property shall be paid by the lessee in order, terms and in form, established by the contract unless otherwise provided by the legal acts. In cases, when they are not determined by the contract, it is considered that order, terms and form, usually applied in case of lease of similar property under comparable circumstances were established.

2. The payment is established for all leased property or separately by each of its components in form of:

1) payments, made from time to time or simultaneously;

2) established share, received in the result of use of leased property, products, benefits or income;

3) rendering of certain services by the lessee;

4) transfer of item to the ownership or lease by the lessee to the lessor stipulated by the contract;

5) imposition of expenses on improvement of leased property stipulated by the contract on the lessee.

The parties can stipulate combination of mentioned forms of payment for property use or other forms of payment in the contract.

3. Amount of payment for property use can be changed at least one time per year, unless otherwise provided by agreement of the parties. Legal acts can stipulate other minimum terms for revision of amount of payment for some kinds of property lease, and also for lease of some kinds of property.

4. Amount of payment can be revised upon the request of either party if prices and tariffs were changed.

5. The lessee shall be entitled to demand of corresponding reduction of payment, if due to circumstances, for which it is not responsible, use conditions, stipulated by the contract, or state of property deteriorated unless otherwise stipulated by the legal acts.

6. Unless otherwise provided for by the contract, in case of material violation of terms of user payment by the lessee, the lessor shall be entitled to demand for advanced payment within the period, established by the lessor. The lessor shall not be entitled to demand for advanced payment before more than two consecutive terms.

#### **Article 547. Supply of property to the leaseholder**

1. The lessor shall be obliged to supply property to the leaseholder in the state meeting the terms and conditions of the lease contract and purpose of property.

2. Property shall be transferred on lease together with all its accessories and related documents (technical certificate, quality certificate, etc.), unless otherwise stipulated by the contract.

If such accessories and documents have not been transferred, the leaseholder may not use property in accordance with its purpose or is largely deprived of those assets on which he/she/it had the right to count during conclusion of the contract and he/she/it may claim for supply of such accessories and documents by the lessor or for termination of the contract.

3. If the lessor has failed to supply to the leaseholder the leased property within the period fixed in the contract or within the reasonable period if such period is not indicated in the contract, the leaseholder shall be entitled to reclaim this property from him/her/it in accordance with Article 355 of this Code and claim on termination of the contract.

#### **Article 548. Liability of the lessor for defects of leased property**

1. The lessor shall be responsible for defects of leased property which prevent in full or in part to its use, if even during conclusion of the contract he/she/it did not know about these defects.



In case of discovery of such defects the leaseholder shall have the right at his/her/it option :

- 1) remove defects of property free of charge;
- 2) reduce rental payment proportionately;
- 3) deduct amount of the expenses incurred during removal of these defects from the rental payment having notified the lessor about this in advance;
- 4) early termination of the contract.

2. The lessor, who was notified about the leaseholder's claims or about his/her/it intention to remove the defects of property at the expense of the lessor, may replace without delay the property granted to the leaseholder by other similar property in proper state or remove its defects free of charge.

3. If the satisfaction of the leaseholder's claims or deduction of expenses on removal of the defects from rental payment does not cover the losses caused to the leaseholder, he/she/it may demand compensation of uncovered part of the losses.

4. The lessor shall not be liable for the defects of the leased property which have been specified during conclusion of the lease contract or had been known to the leaseholder in advance.

#### **Article 549. Rights of third parties to leased property**

1. Lease of property shall not be ground for termination or change of the rights of third parties to this property.

2. During conclusion of lease contract the lessor shall be obliged to inform the leaseholder about all rights of third parties to the leased property (servitude, right of pledge, etc.).

Failure to perform this rule by the lessor shall entitle the leaseholder to demand a reduction of rental payment or to terminate the contract.

#### **Article 550. Use of leased property**

The leaseholder shall be obliged to make use of leased property in accordance with the terms and conditions of the lease contract, and if such terms and conditions have not been defined in the contract, in accordance with the purpose of property.

#### **Article 551. Limits of leased property disposal by the lessee**

1. The leaseholder may transfer the leased property in sub-tenancy with the consent of the lessor and to transfer his/her/its rights and obligations under the lease contract to another person (transfer of lease), to put leased property in gratuitous use, and also to put the leasehold interests in pledge and to introduce them as contribution to the authorized capital of

economic partnerships and societies or as share of business partnerships, unless otherwise stipulated by legal acts. In these cases, except for transfer of lease, the leaseholder shall remain to be liable under the agreement to the lessor.

2. Sublease contract may not be concluded for the period exceeding term of lease contract.

3. Rules for lease contract shall be applied to sublease contracts, unless otherwise stipulated by legal acts.

#### **Article 552. Obligation of the lessor on maintenance of leased property**

1. The lessor shall be obliged to perform overhaul of leased property at his/her/it expense within the terms, agreed by the parties, unless otherwise stipulated by the legal acts.

2. The lessor shall be obliged to perform overhaul, caused by urgent necessity, occurred due to circumstances for which the lessee is not responsible, within a reasonable period, unless otherwise provided for by the legislative acts or the contract.

3. Breach by the lessor of obligation on performance of overhaul shall entitle the leaseholder to implement following measures at his/her/it option:

- 1) to perform overhaul independently and to charge cost of overhaul from the lessor;
- 2) offset cost of overhaul on account of payment by the contract;
- 3) to demand corresponding reduction of rental payment;
- 4) to refuse of the contract.

#### **Article 553. Obligation of the lessee on maintenance of leased property**

The lessee shall be obliged to maintain property in good condition, to perform overhaul at his/her/it own expense and incur expenses on the maintenance of property, unless otherwise stipulated by the law or the lease contract.

#### **Article 554. Proprietary right of the leaseholder on products, benefits and other income from leased property**

Products, benefits and other income received by the leaseholder in the result of use of leased property are its property unless otherwise provided by the legal acts or the contract.

#### **Article 555. Improvements of property**

1. Separable improvements of leased property made by the leaseholder shall be his/her/it property, unless otherwise stipulated by the lease contract.

2. When the leaseholder has made the improvements in leased property, which are not separable without detriment to this property, at the expense of his/her/it own funds and with the consent of the lessor, the leaseholder shall have the right to the replacement of the value of these improvements, unless otherwise stipulated by the contract.

3. Value of inseparable improvements of leased property made by the leaseholder without the lessor's consent shall be subject to reparation, unless otherwise stipulated by the law or by the contract.

#### **Article 556. Change and termination of lease contract on demand of one of the parties**

1. At the request of any party the lease contract may be amended or terminated in advance by the court in cases, stipulated by this Code, other legal acts or the contract.

2. At the request of the lessor the lease contract may be terminated and property returned to the lessor in following cases:

1) if the lessee uses the property with material violation of contractual terms or property assignment, in spite of written notification of the lessor on termination of such actions;

2) if the lessee deteriorates the property willfully or negligently;

3) if the lessee does not make payment for property use more two times upon the expiry of the period, established by the contract;

4) if the lessee does not perform overhaul of the property within the period established by the lease contract, and if they are not defined in the contract - within the reasonable periods in cases when the lessee shall be responsible for overhaul.

The Lessor shall be entitled to demand early termination of the contract only after submission of opportunity to the lessee to perform its obligation within the reasonable period.

3. The contract may be early terminated upon the request of the lessee in following cases:

1) the lessor fails to grant property for use by the leaseholder or creates obstacles to the use of property in accordance with the terms and conditions of the contract or purpose of property;

2) the lessor does not perform obligation on major repairs of property within the time fixed by the lease contract and in their absence - within the reasonable period of time;

3) the property transferred to the leaseholder has defects which prevent its use and which have not been specified by the lessor during conclusion of the contract, were not known to the leaseholder in advance and were not discovered by the leaseholder during inspection of property or verification of its serviceability during conclusion of the contract;

4) property proves to be in faulty condition in view of the circumstances beyond the control of the leaseholder.

#### **Article 557. Leaseholder's preferential right to conclude lease contract for new period**

1. Unless otherwise stipulated by the law or lease contract, the leaseholder who discharged obligations properly shall have preferential right to other persons to conclusion of lease contract for a new period. The leaseholder shall be obliged to inform in writing the

lessor about his/her/its desire to conclude such contract, and if such time is not indicated in the contract - within the reasonable period before the expiry of the validity term of the contract.

2. Concluding lease contract for a new period terms and conditions of the contract may be changed by the agreement between the parties.

3. If the lessor refused the leaseholder from conclusion of the contract for a new period, but concluded the lease contract with another person during one year since the day of the expiry of the validity term of the contract, the leaseholder may at his/her/its option to demand transfer of rights and obligations under concluded contract and reparation of losses, caused by refusal to resume lease contract with him/her/it, or compensation of such losses.

#### **Article 558. Renewal of leasing contract**

If the leaseholder continues to use property after expiry of the validity term of the contract in the absence of objections on the part of the lessor, the contract shall be deemed to be renewed on the same terms for an indefinite period of time. Each party shall be entitled to refuse from the contract, having notified the other party in writing at least three months - in case of real estate lease - and one month - in case of other property unless otherwise provided for by the legal acts or the contract.

#### **Article 559. Preservation of leasing contract in force if its parties are changed**

1. Transfer of ownership right, right of economic management or right of operative management on leased property to other person is not cause for amendment or termination of the lease contract.

2. In case of death of individual, which is leaseholder of the real estate, its rights and obligations by the lease contract of this property shall be transferred to the inheritor unless otherwise stipulated by the legal acts or the contract.

The Lessor shall not be entitled to refuse to such inheritor in conclusion of the contract for the remaining period of its validity except when contract conclusion was stipulated by personal qualities of the lessee.

#### **Article 560. Dependence of sub-lease contract on principal leasing agreement**

1. Unless otherwise provided for by the lease contract, early termination of the lease contract leads to termination of concluded sub-lease contract.

2. If leasing contract is invalid by causes stipulated by this Code, then sub-lease contract, concluded in accordance with it, shall be null and void.

**Footnote. Article 560 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated 27.02.2017 (shall be brought to effect upon expiry of ten calendar days after its first official publication).**

### **Article 561. Return of leased property to the lessor in case of contract termination**

1. In case of termination of the leasing contract the leaseholder shall be obliged to return to the lessor an allowance for normal wear and tear on the same terms on which it received it or on terms, specified by the contract.

2. If state of returned property upon the expiry of the contract does not correspond to conditions, stipulated in paragraph 1 of this Article, the lessee shall compensate inflicted damage to the lessor. If leased property put out of commission earlier than service live stipulated in the contract, the leaseholder shall compensate remaining cost of the property to the lessor unless otherwise provided for by the contract.

3. If the leaseholder failed to return leased property or returned it untimely, the lessor may demand that rental payment was made during it's the whole delay. If mentioned payment does not cover losses caused to the lessor, the leaseholder may claim damages.

4. If penalty is provided for the untimely return of leased property, losses may be recovered in full over and above the penalty, unless otherwise stipulated for by the contract.

### **Article 562. Transfer of property into the ownership of the leaseholder**

1. It can be provided in the lease contract that leased property becomes property of the leaseholder under the terms determined by agreement of the parties.

2. If lease contract does not provide for the clause on the redemption of leased property, it may be introduced by the additional agreement of the parties, which may reach an agreement on calculation of earlier paid rental in redemption price.

3. The law may specify cases of prohibition of redemption of leased property.

### **Article 563. Protection of the leaseholder's rights**

The leaseholder shall be provided with protection of its right on leased property together with protection of its ownership right.

The leaseholder is not responsible for violations of use, which are made by violent actions of the third parties without any rights on leased property.

The leaseholder shall be entitled to make claims or otherwise protect rights on its behalf.

### **Article 564. Features of some kinds of property lease and lease of separate kinds of property**

Provisions stipulated by this paragraph are applied to some kinds of property lease contracts and to lease contracts of separate kinds of property (leasing, lease of enterprises, lease of buildings and constructions, lease of vehicles, hire) unless otherwise provided for by the legal acts and the rules of this Code.

**Footnote. Article 564 - as amended by the Law of the Republic of Kazakhstan N 75-II dated July 5, 2000.**

## **Paragraph 2. Leasing**

### **Article 565. Leasing contract**

1. Under the leasing agreement, the lessor undertakes to acquire the property specified by the lessee from the seller and provide the lessee with this property for temporary possession and use for a fee.

2. Lease contract can provide for that the seller and acquired property can be selected by the lessor.

3. Legal acts of the Republic of Kazakhstan can establish features of separate kinds of leasing contracts.

**Footnote. Article 565 as amended by the Law of the Republic of Kazakhstan dated March 10, 2004. No. 532; No. 184-VI dd. 05.10.2018 (to be effective upon expiration of ten calendar days after the day of its first official publication).**

### **Article 566. Subject of the leasing**

Subject of the leasing may be buildings, structures, machinery, equipment, inventory, vehicles, land plots and any other inconsumable things.

Subject of the leasing may be movables which are subject of pledge.

Subject of the leasing cannot be securities and natural resources.

**Footnote. Article 566 as amended by the Law of the Republic of Kazakhstan No. 308-V dated April 22, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 567. Essential terms of leasing contract**

Following conditions shall be indicated in the leasing contract besides conditions, specified in article 542 of this Code:

1) name of seller of the property;

2) terms and conditions of property transfer to leaseholder;

3) amount and payment frequency;

4) term of the contract;

5) terms of property transfer to the ownership of leaseholder if such transfer is stipulated by the contract;

6) encumbrances.

Essential terms of the contract of financial leasing shall be established by the Law of the Republic of Kazakhstan "On Financial Leasing".

**Footnote. Article 567 as amended by the Law of the Republic of Kazakhstan No 308-V dated 22.04.2015 (shall be enforced upon expiry of ten calendar days after its first official**

publication); No. 311-V dated 27.04.2015 (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 568. Notification of the seller on surrender of property on lease**

The lessor, acquiring property for the leaseholder, shall notify the seller that the property shall be transferred to lease to certain individual.

#### **Article 569. Risk of loss or property damage**

Risk of loss or property damage, which is subject of hire, shall be transferred to the leaseholder during transfer of property unless otherwise provided for by the contract.

#### **Article 570. Payments by hire contract**

Periodic payments to be paid in accordance with hire contract can be calculated taking into account depreciation of the whole or substantial part of value of the property at price applicable during conclusion of the contract.

#### **Article 571. Transfer of subject of the leasing contract to the leaseholder**

1. Property, which is subject of the leasing contract, is transferred by the seller directly to the leaseholder at location of the latter, unless otherwise provided by the contract or follows from the nature of the obligation.

2. When property, which is subject of the leasing contract, was not transferred to the leaseholder within the period specified in this contract, the leaseholder shall be entitled, if delay is due to circumstances for which the lessor is responsible, demand termination of the contract and compensation of damages.

3. Movable property which is subject of a pledge can be transferred by the leasing contract.

**Footnote. Article 571 as amended by the Law of the Republic of Kazakhstan No. 308-V dated April 22, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 572. Liability of the seller**

1. The leaseholder may make directly to the seller of the property, which is subject of the contract of financial lease, claims, following from sale contract, concluded between the seller and the lessor, for quality and completeness of the property, terms of its delivery and in other cases of the improper performance of the contract by the seller. In this case the leaseholder have rights and bear responsibility, provided for by this Code for the buyer, except for the duty on payment for the acquired property, as if it was a party of the sale contract of said property.

In their relations with the seller the leaseholder and the lessor act as joint and several creditors.

2. Unless otherwise stipulated by the contract of financial lease, the lessor shall not be responsible to the leaseholder for performance of the claims following from the sale contract by the seller, except for cases where responsibility for selection of the seller rests with the lessor. In the latter case the leaseholder may at its own option to make claims following from the sale contract, directly to the seller of property and to the lessor, who bear joint and several responsibility.

### **Paragraph 3. Lease of enterprises**

#### **Article 573. Contract of lease of the enterprise**

1. Under the contract of lease of the enterprise as property complex to be used for business, the lessor shall grant to the leaseholder the whole enterprise as property complex ( Article 119 of this Code), including right on corporate name and (or) brand of the right holder , on protected commercial information, and also on other exclusive rights stipulated by the contracts - trade mark, service mark etc. (scope of exclusive rights), except for rights and obligations, which the leasing holder cannot transfer to other persons for charge in temporary possession and use.

2. Rights of the lessor, received on the basis of license for engagement in the relevant activity, shall not be transferred to the leaseholder, unless otherwise stipulated by the legal acts. Inclusion of the obligations which the leaseholder cannot perform due to the absence of such permit (license) in structure of the enterprise to be transferred under the contract shall not exempt the lessor from the corresponding obligations to creditors.

3. Rights and obligations of employees of the enterprise shall be transferred from the lessor to the leaseholder in accordance with the procedure specified in the labor legislation of the Republic of Kazakhstan.

**Footnote. Article 573 as amended by the Law of the Republic of Kazakhstan dated May 15, 2007. No. 253.**

#### **Article 574. Rights of creditors in case of lease of enterprise**

1. The lessor shall be obliged to notify its creditors in writing about transfer of debts to the lessee before conclusion of lease contract, which, in case of disagreement with such transfer, may require the lessor to terminate or early perform the relevant obligations and compensate damages. If any of these claims were not made within the specified period, the creditor is considered as agreed with transfer of the relevant debt to the leaseholder.

2. Enterprise can be transferred to the lessee only after completion of settlements with creditors which demanded termination or early performance of obligations from the lessor.



3. After transfer of the enterprise to lease the lessor and the leaseholder shall bear joint and several responsibility for the debts, which have been included in the leased enterprise and which have been transferred to the leaseholder without the creditor's consent.

#### **Article 575. Form of contract of lease of the enterprise**

Footnote. Heading of Article 575 as amended by the Law of the Republic of Kazakhstan No. 421-IV dated 25.03.2011 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

1. The contract of lease of the enterprise shall be concluded in writing by means of execution of one document to be signed by the parties.

2. Failure to observe form of the contract of lease of enterprise will lead to its voidness.

3. Excluded by the Law of the Republic of Kazakhstan No.421-IV dated 25.03.2011 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Footnote. Article 575 as amended by the Law of the Republic of Kazakhstan No.421-IV dated March 25, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 576. Transfer of the leased enterprise**

The enterprise shall be transferred to the leaseholder under the deed of transfer. The lessor shall prepare the enterprise for its transfer, draw up and submit the deed of transfer for signing at his/her/it expense, unless otherwise stipulated by the contract.

#### **Article 577. Leaseholder's obligation on maintenance of the enterprise and payment of expenses on its operation**

1. During the entire validity term of the contract of lease of the enterprise the leaseholder shall be obliged to maintain the enterprise in proper technical condition, and also to perform its current and major repairs unless otherwise provided by the contract.

2. The leaseholder shall bear expenses incurred during operation of the leased enterprise, unless otherwise stipulated by the contract.

#### **Article 578. Use of property of the leased enterprise**

Unless otherwise stipulated by the legal acts or the contract, the leaseholder may, without the lessor's consent, to sell, exchange, grant for temporary use or lend material values which part of the property of the leased enterprise, to sublease them and to transfer the rights and obligations under the contract of lease in respect of such values to another person, provided that it does not involve reduction of the cost of the enterprise and does not violate other provisions of the contract of the lease of the enterprise.

## **Article 579. Introduction of amendments and improvements to the leased enterprise by the leaseholder**

1. The leaseholder may make changes in leased property complex, reconstruct it, expand, and modernize it, increasing its value, unless otherwise stipulated by the contract of lease of the enterprise.

2. The leaseholder of enterprise shall be entitled to compensation of cost of inseparable improvements in the leased property, regardless of permission of the lessor for such improvements, unless otherwise stipulated by the contract of lease of the enterprise.

3. The lessor may be exempted by the court from the obligation on compensation to the leaseholder of the cost of such improvements, if lessor proves that the leaseholder's outlays on these improvements increase the cost of the leased property in disproportion to the improvement of its operation properties or in case of such improvements the principles of conscientiousness and reasonableness have been breached.

## **Article 580. Return of the leased enterprise**

With the termination of the contract of lease of the enterprise the leased property complex shall be returned to the lessor following the rules, provided for by Articles 573, 574 and 576 of this Code. Preparation of the enterprise to transfer to the lessor, including drawing up and submission of deed of transfer for signing shall be obligation of the leaseholder and shall be performed at his/her/it expense, unless otherwise stipulated by the contract.

## **Paragraph 4. Lease of buildings and structures**

### **Article 581. Contract of lease of building or structure**

1. Under the contract of lease of building or structure the lessor shall transfer a building or structure in temporary possession or in temporary use to the leaseholder.

2. Rules of this paragraph shall be applied to the lease of enterprises, unless otherwise stipulated by the rules of this Code for lease of enterprises

### **Article 582. Form of the contract of lease of building or structure**

**Footnote. Heading of Article 582 as amended by the Law of the Republic of Kazakhstan No. 421-IV dated 25.03.2011 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

1. Contract of lease of building or structure shall be concluded in writing by means of execution of one document to be signed by the parties.

2. Failure to observe form of the contract of lease of building or structure will lead to it voidness.

3. Excluded by the Law of the Republic of Kazakhstan No.421-IV dated 25.03.2011 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Footnote. Article 582 as amended by the Law of the Republic of Kazakhstan No.421-IV dated March 25, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 583. Amount of rental payment**

1. The contract of building or structure lease shall provide for the amount of the rental payment. In the absence of the proviso on the amount of the rental payment, agreed upon by the parties in writing, the contract of building or structure lease shall be deemed to be not concluded. In this case the rules for determination of the price, stipulated by paragraph 3 of Article 385 of this Code, shall not be applied.

2. When charge for lease of building or structure is fixed in the contract per unit of square of the building (structure) or another index of its size, rental payment shall be determined on the basis of the actual size of building or structure transferred to the leaseholder.

#### **Article 584. Transfer of building or structure**

1. The building or structure shall be transferred by the lessor and accepted by the leaseholder y means of deed of transfer or another document to be signed by the parties.

2. If one of the parties refuses from signing the document on transfer of the building or structure on terms stipulated by the contract it shall be considered as a refusal of the lessor from performance of obligation on transfer of property, and of the leaseholder from acceptance of this property.

3. In case of termination of the contract on lease of building or structure the leased building or structure shall be returned to the lessor with the observance of the rules, provided for by paragraphs 1 and 2 of this Article.

#### **Paragraph 5. Lease of vehicles**

##### **Article 585. Lease contract of vehicle with crew**

1. Under the lease contract (temporarily charter) of vehicle with rendering of services on management and maintenance (manned motor vehicle rental contract) the lessor shall grant to the leaseholder a vehicle for charge in temporary possession and use and shall render the services for it driving and technical operation.

2. rules of this chapter on the preferential right of the leaseholder to the conclusion of lease contract for a new period or on renewal of lease contract for indefinite period (Articles 557 and 558 of this Code) shall not be applicable to the lease contract of vehicle with crew.

Footnote. Article 585 as amended by the Law of the Republic of Kazakhstan No.421-IV dated 25.03.2011 (shall be enforced upon the expiry of ten calendar days after its first official publication).

#### **Article 586. Form of lease contract of vehicle with crew**

Lease contract of the vehicle with its crew shall be concluded in writing, regardless of its validity term.

#### **Article 587. Obligation of the lessor on maintenance of vehicle**

During the entire validity term of lease contract for vehicle with its crew the lessor shall be obliged to maintain the proper condition of the leased vehicle, including minor and major repairs and provision of requisite accessories.

#### **Article 588. Obligations of the lessor to drive and operate a vehicle**

1. Services on driving and operating of vehicle granted by the lessor to the leaseholder shall provide for its normal and safe operation in accordance with the purposes of lease specified in the contract. Lease contract on vehicle with its crew may provide for a wider range of services offered to the leaseholder.

2. Crew of vehicle and skill of its members shall comply with the rules binding for the parties, terms and conditions of the contract, and if such requirements were not established by those obligatory rules, crew and skill of its members shall comply with the requirements of the usual practice of vehicle operation and with terms and conditions of the contract.

3. Crew members shall be employees of the lessor. They shall be subordinated to the lessor's orders related to driving and technical operation and to the leaseholder's order related to commercial exploitation of vehicle.

4. Unless otherwise provided for in the lease contract, expenses on payment for services of crew members, and also expenses incurred during their maintenance shall be borne by the lessor.

#### **Article 589. Duty of the leaseholder on payment of expenses incurred during commercial exploitation of vehicle**

Unless otherwise stipulated by lease contract on vehicle with crew, the leaseholder shall bear expenses incurred during commercial exploitation of vehicle, including expenses on payment for fuel and other materials, spent during exploitation and on payment of fees.

#### **Article 590. Insurance of vehicle**

Unless otherwise stipulated by lease contract on vehicle with crew, obligation on insurance of the vehicle and (or) insurance of the responsibility for damage which can be

caused by it or due to its operation shall be vested to the leaseholder in cases when such insurance is obligatory.

#### **Article 591. Contracts with third parties on use of vehicle**

Unless otherwise stipulated by the legal acts of the Republic of Kazakhstan or the contract, the leaseholder within the framework of the commercial exploitation of leased vehicle may conclude carriage contracts and other contracts with third parties without the lessor's consent, unless these contracts contradict the purposes of use of vehicle, indicated in lease contract, and if such purposes were not established, unless these contracts contradict purpose of the vehicle.

**Footnote. Article 591 as amended by the Law of the Republic of Kazakhstan No.49-VI dated 27.02.2017 (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).**

#### **Article 592. Liability for harm caused to vehicle**

In case of destruction or damage to the leased vehicle the leaseholder shall be obliged to compensate to the lessor for the losses incurred, if the latter proves that destruction or damage to vehicle occurred due to circumstances for which the leaseholder is responsible in accordance with the law or the lease contract.

#### **Article 593. Liability for harm caused by vehicle**

The liability for harm, caused to third party by the leased vehicle, its mechanisms, devices, equipment etc. shall be borne by the leaseholder in accordance with the rules of Article 931 of this Code.

#### **Article 594. Specific aspects of vehicles of particular kinds**

Specific aspects of lease of separate kinds of vehicles with rendering of services on driving and operation can be established by the law provided for by this paragraph.

**Footnote. Article 594 as amended by the Law of the Republic of Kazakhstan No.421-IV dated 25.03.2011 (shall be enforced upon the expiry of ten calendar days after its first official publication).**

#### **Article 594-1. Lease contract on vehicle without crew**

1. Under the lease contract on vehicle without crew the lessor shall provide vehicle to the leaseholder in its temporary possession and use for charge without rendering driving and technical operation services.

2. Rules for renewal of lease contract for indefinite period and for the preferential right of the leaseholder to conclude lease contract for a new period (Articles 557 and 558 of this Code ) shall not be applicable to lease contract on vehicle without crew.

**Footnote.** The Code is supplemented with article 594-1 pursuant to the Law of the Republic of Kazakhstan No. 421-IV dated 25.03.2011 (shall be enforced upon the expiry of ten calendar days after its first official publication).

#### **Article 594-2. Form of lease contract on vehicle without crew**

Lease contract on vehicle without crew shall be concluded in writing, regardless of its validity term.

**Footnote.** The Code is supplemented with article 594-2 pursuant to the Law of the Republic of Kazakhstan No. 421-IV dated 25.03.2011 (shall be enforced upon the expiry of ten calendar days after its first official publication).

#### **Article 594-3. Lessor's duty on maintenance of vehicle**

Unless otherwise provided for by the lease contract on vehicle the leaseholder during the entire validity of lease contract of vehicle without crew shall be obliged to support proper condition of leased vehicle, including current and overhaul repair.

**Footnote.** The Code is supplemented with article 594-3 pursuant to the Law of the Republic of Kazakhstan No. 421-IV dated 25.03.2011 (shall be enforced upon the expiry of ten calendar days after its first official publication).

#### **Article 594-4. Leaseholder's duty on payment of expenses incurred during maintenance of vehicle**

Unless otherwise stipulated by the agreement on lease of vehicle without crew, the leaseholder shall bear expenses on maintenance of the leased vehicle and its insurance, including insurance of its liability, and also expenses arising due to its operation.

**Footnote.** The Code is supplemented with article 594-4 pursuant to the Law of the Republic of Kazakhstan No. 421-IV dated 25.03.2011 (shall be enforced upon the expiry of ten calendar days after its first official publication).

#### **Article 594-5. Third parties contracts on use of vehicle**

Unless otherwise stipulated by the contract on lease of vehicle without crew, the leaseholder may sublease the leased vehicle without the lessor's consent on terms and conditions of lease contract of the vehicle with crew or without it.

**Footnote.** The Code is supplemented with article 594-5 pursuant to the Law of the Republic of Kazakhstan No. 421-IV dated 25.03.2011 (shall be enforced upon the expiry of ten calendar days after its first official publication).

#### **Article 594-6. Liability for harm caused by vehicle**

The liability for harm caused to third parties by vehicle, its mechanisms, devices and equipment shall be borne by the leaseholder in accordance with the rules of Article 931 of this Code.

**Footnote.** The Code is supplemented with article 594-5 pursuant to the Law of the Republic of Kazakhstan No. 421-IV dated 25.03.2011 (shall be enforced upon the expiry of ten calendar days after its first official publication).

#### **Article 594-7. Specific aspects of vehicles of particular kinds**

Specific aspects of lease of separate kinds of vehicles without rendering of services on driving and operation can be established by the other legal acts.

**Footnote.** The Code is supplemented with article 594-7 pursuant to the Law of the Republic of Kazakhstan No. 421-IV dated 25.03.2011 (shall be enforced upon the expiry of ten calendar days after its first official publication).

#### **Paragraph 6. Hire**

##### **Article 595. Hire contract**

1. Under the hire contract the lessor who transfer property on lease as permanent business shall grant movable property to the leaseholder for charge in temporary possession and use.

Property provided under the hire contract shall be used for consumer purposes, unless otherwise stipulated by the contract or unless the contrary follows from the nature of the obligation.

2. The hire contract shall be concluded in writing.

3. The hire contract shall be public agreement (Article 387 of this Code).

##### **Article 596. Term of hire contract**

1. The hire contract shall be concluded for a period of one year.

2. The rules for renewal of lease contract for indefinite period and for the preferential right of the leaseholder (Articles 557, 558 of this Code) shall not be applicable to the hire contract.

3. The leaseholder may refuse from the hire contract at any time unless otherwise stipulated by the contract.

##### **Article 597. Supply of property to the leaseholder**

The lessor who concludes the hire contract shall be obliged to verify serviceability of leased property in the presence of the leaseholder, and also to acquaint the leaseholder with the rules of property use or to issue written instructions on use of this property to it

## **Article 598. Removal of defects of leased property**

In case of discovery of defects in leased property by the leaseholder which wholly or partially prevent its use, the lessor shall be obliged, within ten days since the day of the leaseholder's statement on defects, unless the hire contract provides for a shorter period, to remove the defects of property on the place free of charge or to replace this property for other similar property in proper condition.

If defects of leased property occurred in the result of breach of the rules on operation and maintenance of property by the leaseholder, the leaseholder shall pay cost of repairs and transportation of property to the lessor.

## **Article 599. Payment for property use**

1. Payment under the hire contract shall be fixed in definite payments made periodically or on nonrecurring basis.

2. If the leaseholder returns property in advance, the lessor shall return corresponding part of the received rental payment to it, calculating it since the day following the day of actual return of property.

3. (excluded)

Footnote. Article 599 was amended by the Law of the Republic of Kazakhstan dated March 29, 2000. No. 42.

## **Article 600. Use of leased property**

1. Major and current repairs of property leased under the hire contract shall be obligation of the lessor.

2. Sub-lease of property granted to the leaseholder under the hire contract, transfer of its rights and obligations under the hire contract to another person, provision of this property for gratuitous use, pledge of lease rights and their contribution as property share to economic partnerships and joint-stock companies or to production cooperatives shall not be allowed.

## **Chapter 30. Dwelling hire**

### **Article 601. Contract of dwelling hire**

1. Under the contract of dwelling hire one party - the owner of dwelling or person authorized by it (lessor) shall be obliged to provide dwelling in use for charge to the other part (tenant) and members of its family.

2. Contract of dwelling hire shall be concluded in writing.

Footnote. Article 601 as amended by the Law of the Republic of Kazakhstan No. 421-IV dated March 25, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication).



## **Article 602. Contract of dwelling hire in state housing fund**

1. Contract of dwelling hire in state housing fund shall be concluded on the basis of the decision of the local executive authority, public institution or state enterprise on dwelling provision.

2. Terms of dwelling provision, rights and obligations of the parties, causes of changes and termination of contract of dwelling hire in state housing fund shall be established by the housing legislation.

**Footnote. Article 602 as amended by the Law of the Republic of Kazakhstan No. 479-IV dated 22.07.2011 (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Article 603. Contract of dwelling hire in private housing fund**

Terms of dwelling hire in private housing fund shall be determined by agreement of the parties unless otherwise stipulated by the housing legislation.

## **Chapter 31. Gratuitous use of property**

### **Article 604. Contract for gratuitous use**

1. Under the contract for gratuitous use (loan agreement) one party (lender) shall transfer an item or transfer it in gratuitous use by the other party (borrower), while the latter shall return the same item in terms in which it received it with due account for normal depreciation or in terms stipulated by the contract.

2. Rules of Article 541, paragraph 1 and first part of paragraph 2 of Article 545, Article 550, Article 555, sub-paragraphs 1), 2), 4) of paragraph 2 of Article 556, Article 558 of this Code shall be applicable to the contract for gratuitous use.

3. Provisions of the Code with features, established by the legal acts of the Republic of Kazakhstan on state property and other legal acts of the Republic of Kazakhstan shall be applied to the contract of gratuitous use of state property.

**Footnote. Article 604 as amended by the Law of the Republic of Kazakhstan No. 414-IV dated 01.03.2011 (shall be enforced from the date of its first official publication).**

### **Article 605. Lender**

1. The right on transfer of property in gratuitous use shall belong to its owner and other persons authorized by the law or by the owner.

2. Non-profit organization may transfer property in gratuitous use to person who is its founder, partner (shareholder), manager, member of its management or control bodies.

### **Article 606. Submission of property in gratuitous use**

1. The lender shall be obliged to submit a property in the state, corresponding to terms of the contract for gratuitous use and its purpose.

2. Property shall be provided to gratuitous use with all its accessories and related documents (documents, certifying completeness, safety, quality of property, operating procedure etc.), unless otherwise stipulated for by the contract.

If such accessories and documents have not been transferred, and without them the property can not be used according to its purpose or its use is responsible for loss of its value for the lender, the latter may demand such accessories and documents or cancellation of the contract and indemnity for the real loss.

#### **Article 607. Liability for defects of property given for gratuitous use**

1. The lender, which transferred property to gratuitous use, shall be responsible for defects of property which he did not specify during transfer of property deliberately or because of gross negligence, if actual damage was incurred by the borrower.

2. The lender, being informed about the claims of the borrower or about its intention to remove the defects of the property at the expense of the lender, may replace faulty property by another similar property in a proper condition without delay.

3. The lender shall not be responsible for defects of property which were specified by during conclusion of the contract or been known to the borrower in advance, or were discovered by the borrower during inspection of the property or verification of its good condition during conclusion of the contract or transfer of the property.

#### **Article 608. Rights of third party to the property transferred to gratuitous use**

Transfer of property to gratuitous use shall not be a ground for amendment or termination of rights of third parties to this property.

During conclusion of contract to gratuitous use the lender shall be obliged to inform the borrower about all rights of third parties to this property (servitude, pledge right, etc.). Failure to perform this obligation shall entitle the borrower to demand termination of the contract and compensation of real loss.

#### **Article 609. Obligation of the borrower on property maintenance**

The borrower shall be obliged to maintain the property received for gratuitous use in a good condition, including current and major repairs, and to bear all the expenses on its maintenance, unless otherwise stipulated for by the contract for gratuitous use.

#### **Article 610. Risk of accidental destruction or accidental damage of the property**

The borrower shall bear the risk of accidental destruction or accidental damage of the property received for gratuitous use, if it was destroyed or broken due to the fact that it used it

not in accordance with the contract for gratuitous use or its purpose, or transferred the property to third party without the lender's consent.

The borrower shall also bear the risk of accidental destruction or accidental damage to the property, if it could prevent its destruction or damage sacrificing its property but preferred to preserve its property.

#### **Article 611. Liability for harm inflicted to third parties in the result of property use**

The lender shall be liable for harm inflicted to the third party in the result of use of property, unless it proves that harm was caused in the result of willful or gross negligence on the part of the borrower or individual, who used this property with the lender's consent.

#### **Article 612. Early termination of the contract**

1. The lender may demand early termination of contract for gratuitous use in cases when the borrower:

- 1) uses property not in accordance with the contract or with its purpose;
- 2) fails to perform obligation on maintenance of the property in good condition or on its maintenance;
- 3) substantially worsens state of the property;
- 4) transfers property to the third party without the lender's consent.

2. The borrower may demand early termination of contract for gratuitous use:

- 1) if defects which make impossible or burdensome the normal use of the property were discovered and, moreover he did not know about them and could not know about them during conclusion of the contract;
- 2) if property proves to be in state unsuitable for its use due to circumstances for which it is not responsible;
- 3) if during conclusion of the contract the lender did not inform it about the rights of third parties to transferred property;
- 4) if the lender has failed to performed the obligation on transfer of property or its accessories and related documents.

#### **Article 613. Repudiation of the contract**

1. Each party of the contract may repudiate the contract for gratuitous use, concluded without indication of its validity term at any time, informing the other party one month in advance, unless different date of notification provided for the contract.

2. Unless otherwise stipulated by the contract, the borrower may repudiate the contract, concluded with indication of its validity term, in order, provided for by paragraph 1 of this Article at any time.

#### **Article 614. Change of parties in the contract**

1. The lender may alienate property or to transfer it to third person. In this case, new owner or user shall receive the rights under the contract for gratuitous use, concluded earlier, while his/her/its rights to the property shall be encumbered with the rights of the borrower.

2. In case of the lender's death or reorganization or liquidation of lending legal entity, rights and obligations of the lender under the contract for gratuitous use shall pass on to the heir (legal successor) or to the other person to whom the right of ownership to the property or another right, on the basis of which the property was transferred for gratuitous use.

In case of the reorganization of lending legal entity, its rights and obligations under the contract shall pass to the legal entity which is its legal successor, unless otherwise provided for by the contract.

### **Article 615. Termination of the contract**

The contract for gratuitous use shall be terminated in case of the borrower's death or liquidation of the borrowing legal entity, unless otherwise stipulated by the contract.

## **Chapter 32. Contract**

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

### **Article 616. Work contract**

1. Under the work contract one party (contractor) shall perform certain work according to the assignment of the other party (customer) and to deliver it to the customer within the established term, whereas the customer shall accept the result of this work and to pay for it (pay cost of work). Work is performed for the contractor's risk unless otherwise stipulated for by the law or the contract.

2. Unless otherwise stipulated by the contract, the contractor determines methods of implementation of the customer assignment independently.

3. Provisions, stipulated by this paragraph shall be applied to the individual types of work contracts (domestic contract, building contract, contract for design and survey works, contract for scientific and research, design and experimental and technological works), unless otherwise stipulated by the rules of this Code for these kinds of contracts.

4. Relations by separate kinds of work contracts can be regulated together with this Code and legal acts on separate kinds of work contract.

### **Article 617. Work and labour**

1. Unless otherwise stipulated by the contract, work is performed by dependence of the contractor: of its materials, using its resources and facilities.

2. The contractor is responsible for improper quality of materials and equipment supplied by him/her/it, and also for provision of materials and equipment, encumbered with rights of third persons.

#### **Article 618. Risk of accidental destruction of materials**

Unless otherwise provided by the legal acts or the contract, risk of accidental destruction or accidental damage of materials before term of delivery of work, stipulated by the contract, shall be borne by the party, provided materials;

In case of delay in delivery or acceptance of the result of work the risks shall be borne by the part which made this delay unless otherwise provided by the law or by the contract.

#### **Article 619. General contractor and subcontractor**

1. Unless otherwise follows from the law or the contract, the contractor may attract other persons (subcontractors) to performance of obligations. In this case the contractor will act as general contractor, and as the customer for subcontractors.

2. General contractor shall be responsible to the subcontractor for failure to perform or improper performance of obligations by the customer, and to the customer - liability for failure to perform or improper performance of obligations by the subcontractor.

3. Unless otherwise stipulated by the law or the contract, the customer and the subcontractor may make claims to each other related to breach of the contracts, concluded by each of them with the general contractor.

4. In case of consent of the general the customer may conclude contracts for performance of individual works with third persons. In this case they shall be responsible directly to the customer for failure to perform or improper performance of work.

5. If contract is concluded simultaneously with two or more contractors and subject of the obligation is indivisible, then contractors are recognized as joint and several debtors to the customer. In case of divisibility of subject of the obligation, and also in other cases stipulated by legislative acts or by agreement of the parties, each of the contractors acquires rights and bears obligations to the customer within its share.

#### **Article 620. Terms of work performance**

1. Initial and deadline terms of work performance shall be indicated in the agreement for contract. As agreed by the parties the contract may also provide for the dates of completion of particular stages of the work concerned (interim dates).

Unless otherwise stipulated by the contract, the contractor shall bear responsibility for violation of the initial or ultimate and interim dates of work performance.

2. Initial, ultimate and interim dates of work performance may be changed in cases and in order, stipulated by the contract.

## **Article 621. Price of the work**

1. Price of performed work or methods of its estimation shall be indicated in work contract. If there is no such indication in the contract and if parties did not reach agreement, the price shall be estimated by the court on the basis of standard prices taking into account required expenses, incurred by the parties.

2. Price of work may be estimated by means of execution of its estimate.

When work is performed in accordance with the estimate, made by the contractor, the estimate shall acquire the force and become part of the contract since its confirmation by the customer.

Price of the work (estimate) may be approximate or fixed. In the absence of other references in work contract the price of the work (estimate) shall be deemed to be fixed. This reason for substantial excess of price of the work estimated approximately, the contractor shall be obliged to inform the customer in due time. The customer which disagreed with increase of the price for work (estimate) shall be entitled to refuse from the contract. In this case the contractor may demand that the customer pay price for performed part of the work.

4. The contractor which did not inform the customer in due time about the need to exceed the price of the work, indicated in the contract, shall be obliged to perform the contract and retain the right to payment for work at price specified in the contract.

5. The contractor may demand an increase in fixed price, whereas the customer may demand its decrease, including when during conclusion of the contract the possibility to make provision for the full scope of works subject to performance or of the expenses needed for this was excluded.

In the event of substantial increase in cost of materials and equipment provided by the contractor after conclusion of the contract, and also of the services rendered to by third parties, the contractor may demand an increase in the fixed price (estimate), and termination of the contract in case of the customer's refusal to perform this requirement.

## **Article 622. Saving of the contractor**

1. When the contractor's actual expenses prove to be less than those calculated in estimation of the price for work, the contractor shall retain the right to payment for works at price, provided for by the work and labour contract, unless the customer proves that saving, obtained by the contractor, affected quality of the performed work.

2. The contract may provide for distribution of saving, obtained by the contractor, among the parties.

## **Article 623. Procedure for payment for the work**

1. If the contract does not provide for preliminary payment for performed work or its particular stages, the customer shall be obliged to pay to the contractor the specified price

after final delivery of the results of the work, provided that the work was performed properly and within the agreed period or in advance with the consent of the customer.

2. The contractor may demand the advance or earnest only in cases and in the amount, indicated in legal acts or in the contract.

#### **Article 624. Right to retention**

1. If the customer failed to perform obligation on payment of fixed price or any other amount due to the contractor due to performance of the contract, the contractor may retain the results of the work, and equipment belonging to the customer, item, transferred for processing, remainder of unused material and other property of the customer before payment of relevant amount of money by the customer.

2. The contract may provide to withhold part of the remuneration due to the contractor in order to cover the costs for removal of defects discovered within the period provided for in Article 630 of this Code.

#### **Article 625. Performance of work using customer's material**

1. The contractor shall be obliged to use material supplied by the customer economically, submit the report on waste of the materials after work completion to the customer, and also to return its remainder or to reduce price of the work with the customer's consent and taking into account the value of unused material which remains at the contractor's disposal.

2. The contractor shall be liable for improper performance of work caused by defects in materials provided for by the customer, unless it proves that defects could not be detected with proper acceptance of these materials.

#### **Article 626. Contractor's liability for failure to preserve safety of property supplied by the contractor**

The contractor shall bear responsibility for failure to preserve safety of the materials, equipment supplied by the customer, of items and other property transferred for processing and possessed by the contractor due to performance of the contract.

#### **Article 627. Rights of the customer during performance of the work**

1. The customer may verify progress and quality of work performed by the contractor at any time, not interfering in the activity.

2. If the contractor does not start to perform work and labour contract or performs work so slowly that it is impossible to finish it by the fixed time, the customer may refuse to perform the contract and claim damages.

3. If it becomes obvious during performance of the work that it will not be performed properly, the customer may appoint a reasonable date for removal of shortcomings and in

case of failure to perform this requirement by the contractor within the appointed time to refuse from the work and labour contract or to entrust the other individual with correction of work at the expense of the contractor, and also to claim damages.

4. Unless otherwise provided for by the contract, the customer may at any time refuse from the contract, paying the contractor for work performed before receipt of notification on the customer's refusal from the contract. The customer is also obliged to reimburse the contractor for losses caused by termination of the contract, within the difference between the part of the price paid for performed work and price determined for the entire work.

#### **Article 628. Circumstances about which the contractor shall be obliged to inform the customer**

1. The contractor shall be obliged to inform the customer immediately and to suspend the work before it receives instructions in the event of:

1) unsuitability or substandard quality of customer's materials, equipment, technical documents or thing delivered for processing (treatment);

2) possible unfavorable consequences of implementation of the customer's instructions on method of work performance;

3) other circumstances beyond the contractor's control, which endanger fitness or stability of the results of performed work or make it impossible to finish this work on time.

2. The contractor, who failed to inform the customer about circumstances, indicated in paragraph 1 of this Article or who continued work without waiting for the expiry of the date, referred to in the contract without waiting the expiry of the reasonable period for response to the notification or despite timely indication of the customer concerning discontinuance of the work, may not refer to mentioned circumstances in the event of presentation of appropriate claims to him or by him to the customer.

3. If despite timely and justified notification by the contractor about the circumstances, referred to in paragraph 1 of this Article, the customer fails to replace the unfit and substandard materials within the reasonable time, does not change instructions on method of work performance or does not take other necessary measures to remove the circumstances threatening its fitness, the contractor may perform the contract and claim the damages caused by termination of the contract.

#### **Article 629. Customer's assistance**

1. The customer shall be obliged to assist the contractor during performance of the work in scope and in order, provided for by the contract.

In case of failure to perform such obligations by the customer the contractor may claim damages, including additional costs caused by downtime or by deferral dates of work performance, or by increase in price of the work.



2. If it is impossible to perform the work under the contract due to the customer's actions or omission, the contractor may pay the price, indicated in the contract, with account of the performed part of the work.

### **Article 630. Acceptance of performed work by the customer**

1. The customer shall be obliged to inspect and to accept performed work with the participation of the contractor within the terms and in order, provided for by the contract,; in the event of deviation from the contract which worsen the result of the work or of any other shortcomings in the work, the customer shall be obliged to inform the contractor about this.

2. The customer who has discovered shortcomings in the work during its acceptance may refer to them in cases when these shortcomings or the possibility of subsequent presentation of claim about their elimination were stipulated in the deed or any other document certifying acceptance.

3. The customer who has accepted the work without its inspection shall be deprived of the right to refer to shortcomings in the work which can be established in case of usual acceptance (obvious defects).

4. The customer who has discovered deviations from the contract or other defects which cannot be identified by usual acceptance (latent defects), including those which were deliberately hidden by the contractor, in the work after its acceptance shall be obliged to inform the contractor about this within the reasonable period upon their discovery.

5. Deadline for notification of the contractor of hidden defects discovered by the customer is one year, and three years from the date of acceptance of the work for works related to buildings and structures, and regardless of type of work, for defects which were deliberately hidden by the contractor.

Legal acts or the contract may establish terms (guarantee periods) of longer duration.

If, in accordance with the contract, the work has been accepted by the customer in parts, deadline established in this paragraph shall start from the date of acceptance of the results of the work.

6. If dispute arises between the customer and the contractor about shortcomings of the work performed or their reasons, expert examination shall be assigned at the request of the either party. Expenses on examination shall be borne by the contractor, except when the examination has established that there are no breaches of contract or causal link between actions of the contractor and found shortcomings. In these cases, costs on examination shall be borne by the party for which its assignment is required, and if examination was assigned by the agreement of the parties, both parties shall borne equal expenses.

7. When the customer refuses to accept the results of work, the contractor shall be entitled , after one month from the day when, according to the contract, the work was transferred to

the customer, and after subsequent double notifications of the customer, to sell the result of the work, and received amount, deducted all payments due to the contractor, deposit to the notary in the name of the customer, unless otherwise provided by the contract.

8. If refusal of the customer from the acceptance of performed work led to delay in delivery of the work, ownership right on manufactured (processed) item shall be recognized as passed to the customer during transfer of the item.

#### **Article 631. Calculations between the parties in case of death of the subject of the contract or impossibility to complete the work**

If subject of the contract has accidentally died before completion or completion of work became impossible due to the fault of the parties, the contractor shall not be entitled to demand remuneration for the work.

If death of subject of the contract or impossibility to complete the work occurred due to defects in the material supplied by the customer, or his/her/it orders on method of the work performance, or occurred after delay of the customer's acceptance of the work, and the contractor observed the rules of Article 628 of this Code, the contractor retains the right to get a remuneration for the work.

#### **Article 632. Quality of work**

1. Quality of work performed by the contractor shall correspond to terms and conditions of the contract and in the absence or in the event of incompleteness of these terms and conditions - to the requirements usually made to the work of the relevant kind.

2. If law or other legal acts provide for mandatory requirements to the work to be performed under the work and labour contract, the contractor, acting as businessman, shall be obliged to perform the work, observing these mandatory requirements.

The contractor may assume under the contract the obligation on performance of work which meets higher requirements for quality than the requirements binding for the parties.

#### **Article 633. Guarantee of work quality**

1. When legislative acts or the contract stipulate that the contractor provides the customer with guarantee of work quality, the contractor shall be obliged to transfer the result of the work to the customer, which shall meet the requirements of Article 632 of this Code during the entire guarantee period.

2. Guarantee of working result quality, unless otherwise provided by the contract, applies to all elements of the result of the work.

#### **Article 634. Calculation of the guarantee period**

Unless otherwise provided by the contract, the guarantee period starts from the moment when the results of the performed work were accepted or shall be accepted by the customer.

#### **Article 635. Contractor's liability for improper quality of work**

1. When work was performed by the contractor with deviation from the contract which have worsened the result of the work or with other defects which make it unsuitable for the use, stipulated by the contract, or in the absence of the relevant condition of unfitness for usual use in the contract, the customer may, unless otherwise stipulated by the law or the contract, demand following actions from the contractor:

- 1) gratuitous removal of defects within the reasonable period;
- 2) adequate reduction of price fixed for the work;
- 3) reimbursement of expenses incurred during removal of defects, when the customer's right to remove them is provided for by the contract.

2. The contractor shall be entitled, instead of removal of defects of the work for which he/she/it is responsible, to perform the work again without compensation to the customer for the losses caused by the delay in the performance. In this case, the customer shall be obliged to return the results of work previously transferred to him/her/it to the contractor, if such return is possible by nature of the work.

3. If any deviations from terms of the contract or other defects in the work are significant and unrecoverable, or if the defects identified by the customer have not been resolved within the reasonable period of time, the customer shall be entitled to refuse from the contract and demand compensation for damages.

4. The contract may provide for exemption of the contractor from liability for certain defects. Specified condition is not valid if the customer proves that defects were caused by wrongful acts or omissions of the contractor.

5. The contractor, provided materials for the work, is responsible for their quality according to the rules on the seller's responsibility for goods of improper quality ( sub-paragraphs 1) -3 and 5) paragraph 1 of Article 428 of this Code).

#### **Article 636. Limitation of claims on low quality of work**

Limitation period of claims caused by improper quality of work, performed under the contract starts from the day when defects were discovered, which the customer stated within the time limit provided for in Article 630 of this Code.

#### **Article 637. Duty of the contractor to transfer information to the customer**

The contractor shall be obliged to transfer information on operation or any other use of subject of the work and labour contract together with the result of the work, if this is provided

for by the contract or if nature of information is such that it is impossible to use the result of the work for the purposes, indicated in the contract without it.

#### **Article 638. Confidentiality of information received by the parties**

If the party due to performance of its obligation under the contract has received information about new decisions and technical knowledge, including knowledge not legally protected, and also information which can be considered as commercial secret from the other party, the party may communicate it to the third party without the consent of the other party.

Procedure and conditions for application of such information shall be determined by the agreement of the parties.

#### **Article 639. Return of materials and equipment to the customer**

When the customer terminates the contract based on paragraph 4 of Article 627 or paragraph 3 of Article 635 of this Code, the contractor shall be obliged to return the materials and equipment, supplied by the customer, item transferred for processing and other property or to transfer them to the individual, indicated by the customer, and if this is impossible - to compensate value of the materials, equipment and other property, received from the customer.

#### **Paragraph 2. Features of consumer work**

#### **Article 640. Consumer work contract**

Under the consumer work contract the contractor conducting an appropriate business shall perform the work assigned by the individual customer in order to satisfy the customer's household and other personal requirements, and the customer shall accept the work and to pay for it.

The consumer work contract is public agreement (Article 387 of this Code).

#### **Article 641. Guarantees of the customer's rights**

1. The contractor may not to impose on the customer inclusion of additional work or service in the consumer work contract. The customer may refuse to pay for the work or service if such requirement was violated by the customer.

2. The customer may refuse to perform the contract at any time before delivery of work to him/she/it, paying to the contractor a part of fixed price in proportion to part of the work, performed before the notification about refusal to perform the contract and reimbursing the contractor's expenses incurred prior to this period. Terms and conditions of the contract which deprive the customer of this right shall be null and void.

**Footnote. Article 641 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated 27.02.2017 (shall be brought to effect upon expiry of ten calendar days after its first official publication).**

#### **Article 642. Contract form**

Unless otherwise provided by the legal acts or the contract, including terms of sheets or other standard forms to which the customer is related (Article 389 of this Code), consumer work contract shall be deemed concluded in proper form from the moment the contractor issues a receipt or other document, confirming conclusion of the contract.

Absence of these documents does not deprive of the right to refer to the testimonies in support of the fact of conclusion of the contract or its terms.

#### **Article 643. Provision of information about offered work to the customer**

Delivering the result of the work to the customer, the contractor shall be obliged to inform him/her/it on the requirements which shall be met for effective and safe use of manufactured or reworked item or another result of the performed work, and possible consequences of failure to meet the relevant requirements for the customer and other persons.

#### **Article 644. Submission of information on the work to the customer**

1. Before conclusion of the contract, the contractor shall be obliged to provide the customer with necessary and reliable information on proposed works, their types and features, price and form of payment for the work, and also to inform to the customer, at his/her/it request, other information related to the contract and the relevant work. If necessary, the contractor shall indicate specific individuals to the customer, who will perform the work.

2. The customer shall be entitled to demand termination of the contract and damages in cases when, in the result of incompleteness or inaccuracy of the information received from the contractor, the contract was concluded for performance of work which does not have properties which the customer kept in mind.

#### **Article 645. Fulfilment of work from contractor's materials**

1. If work under the contract is fulfilled from the customer's materials, the material is paid by the customer upon conclusion of the contract in full or in part specified in the contract, with final settlement upon receipt by the customer of the results of work performed by the contractor.

In accordance with the contract, the material may be provided by the contractor against credit, including condition on payment of the material in installments by the customer.

2. Change in price on material provided by the contractor after conclusion of the contract does not lead to recalculation.

#### **Article 646. Performance of work from the customer's materials**

If work under the contract is performed from the customer's materials, receipt or any other document issued by the contractor to the customer during conclusion of the contract shall include exact name, description and price of materials to be determined by the agreement of the parties. Estimation of materials in receipt or any other similar document may be subsequently disputed by the customer in court.

#### **Article 647. Price and payment for the work**

Price of the work in the contract shall be determined by the agreement of the parties and shall not be higher than indicated in the price list declared by the contractor. Work shall be paid by the customer after finally delivery of the results by the contractor. As agreed by the parties the work can be paid by the customer during conclusion of the contract in full or by means of advance payment.

#### **Article 648. Consequences of discovery of defects in performed work**

1. The customer may implement one of the rights provided for in Article 635 of this Code when he/she/it discovered defects during acceptance of working results or during use of contract subject - during general terms provided for in Article 630 of this Code, and if there are guarantee periods - within these terms.

2. Requirement for free removal of such defects in work, performed under the contract, which may pose a danger to life or health of the customer and other persons may be made by the customer or his/her/it successor within three years from the date of work acceptance, if other terms were not stipulated in the legal acts (terms of service). Such requirement can be made regardless of term when these defects were discovered, including when they were detected at the end of the guarantee period.

If the contractor fails to comply with the specified requirement, the customer shall be entitled to demand either return of part of the price paid for the work or reimbursement of expenses incurred during removal of defects on its own or with the assistance of third parties.

#### **Article 649. Consequences of the customer's failure to appear to receive the result of the work**

1. If the customer failed to appear in order to receive the result of performed work or refused from its acceptance, the contractor may sell the result of the work at reasonable price, notifying the customer in writing, upon the expiry of two months since such notification and to deposit received amount, deducted all payments due to the contractor, on deposit account in order, prescribed by Article 291 of this Code.

2. In cases, specified in paragraph 1 of this Article, the contractor can use right of its retention instead of sale of subject of the contract (article 624 of this Code) or to recover incurred losses from the customer.

#### **Article 650. Consequences of death of one of the parties of the agreement**

In cases of termination of the contract on the basis of death of one of the parties (Article 376 of this Code), consequences of termination of the contract are determined by agreement between the legal successor of the corresponding party and its counterparty, and if they do not reach an agreement, by the court taking into account scope of performed work and its price, cost and preserved material, and other significant circumstances.

### **Paragraph 3. Features of construction project**

#### **Article 651. Construction project contract**

1. Under the construction project contract the contractor shall within the period stipulated by the contract to build by the assignment of the customer a project or to perform other construction works, whereas the customer create requisite conditions for performance of works for the contractor, accept their result and pay specified price.

2. Construction project contract shall be concluded in order to build or reconstruct an enterprise or building (including dwelling house), to erect any other project, and also to perform assembly, start-up and adjustment operations, and other works related to the project. Rules of this paragraph shall also be applied to works involved in major repairs of buildings and structures, unless otherwise stipulated by the contract.

In cases provided for by the contract the contractor shall assume obligation on running the project after it has been accepted by the customer during the period indicated in the contract.

3. In case of “turnkey” construction project contract, the contractor assumes all obligations for construction and its maintenance and shall pass the object, ready for operation, to the customer according to the contractual terms.

4. Owner of unfinished construction prior to its delivery to the customer and payment for the work is contractor (except for objects of shared housing projects).

5. If under construction project contract the contractor performs the works in order to meet household and other personal needs of the individual (customer), rules on the customer's rights shall be accordingly applied to such contract.

**Footnote. Article 651 as amended by the Law of the Republic of Kazakhstan No 487-V dated 07.04.2016 (shall be enforced upon expiry of six months after its first official publication).**

#### **Article 652. Allocation of risk by construction project contract**

1. When construction object is destroyed or damaged due to force majeure, before expiration of the work deadline established by the contract, the customer shall be obliged, unless otherwise provided for by the contract, to pay cost of completed and (or) restoration work.

2. Unless otherwise provided for by legislative acts or the contract, risk of accidental impossibility to perform work before it will be transferred, is borne by the customer.
3. Risk of accidental increase in cost of the work shall be borne by the contractor.
4. The contract may provide for transfer of all possible construction risks to the contractor (construction on a “turnkey basis”).
5. The contract may provide insurance for risks of the contractor. In this case, insurance costs are included in construction costs, taken into account during determination of remuneration for the performed work.

#### **Article 653. Responsibility for safety of work**

Responsibility for safety of the work shall be borne by the contractor.

#### **Article 654. Design and estimate documentation**

1. The contractor shall be obliged to perform construction and related works in accordance with design documents, determining scope and content of works and other requirements made for them and with the estimate, defining the price of the works.

In the absence of other instructions, construction project contract implies that the contractor shall be obliged to perform all works specified in technical documents and estimate (design and estimate documents).

2. Unless otherwise provided for by the contract, design estimates and other technical documentation drawn up in foreign language shall be transferred to the contractor translated into the state or Russian language. Measurement units shall comply with metric system, established by the legal acts.

3. Construction project contract shall determine structure and content of design and estimate documentation, and it shall also be provided for which of the parties and within what time period shall submit the relevant documentation.

4. The contractor, which discovered works which were not considered by design and estimate documentation and the need for additional work and increase in estimated cost of construction, shall be obliged to inform the customer.

If the customer does not receive a response to the message within ten days, if other period is not provided in legislative acts or the contract, the contractor may suspend the relevant work and relate losses caused by downtime to the customer.

5. The Contractor who did not perform obligations established by paragraph 4 of this article is deprived of the right to demand payment for additional work from the customer and compensation for losses caused by this, unless he/she/it proves need for immediate action in favor of the customer, particularly, suspension of work can led to death or damage of the object under construction.



6. If the Customer agrees on additional works and their payment the contractor may refuse from mentioned works only if they are not included into the scope of professional activity or cannot be performed by the contractor regardless of its causes.

#### **Article 655. Making amendments into design and estimate documentation**

1. The customer may introduce changes to design and estimate documentation, not related with additional expenses for the contractor and (or) prolongation of terms of work performance.

2. Amendments to design and estimate documentation, requiring additional costs for the contractor, are made at the expense of the customer on the basis of additional estimates agreed by the parties.

3. The contractor may demand a review of the estimate, if cost of the work exceeded estimate by at least ten percent for causes beyond his/her/its control.

4. The contractor may demand reimbursement of reasonable expenses incurred due to establishment and removal of defects in design and estimate documentation, except for the cases when such documentation was prepared on his/her/it order.

#### **Article 656. Material support of the works**

1. The contractor is responsible for provision of construction materials, including parts and structures, and equipment, unless the contract provides for the material support of the construction in whole or in certain part to be performed by the customer.

2. The contractor, which obligation is to provide material support for construction, bears the risk of the impossibility to use the materials provided by the contractor (parts, structures) or equipment without deterioration of quality of the performed work.

3. In cases of the revealed impossibility to use the materials (parts, structures) or equipment provided by the customer without deterioration of quality of the performed work, the contractor shall be obliged to demand that they were replaced by the customer within the reasonable time, and if this requirement shall not be fulfilled, the contractor shall be entitled to refuse from the contract and demand parts of the work, and compensation for damages not covered by this amount.

#### **Article 657. Payment for work**

1. Payment for performed work is made by the customer in the amount stipulated by the estimate, in time and in order established by legislative acts or the contract. In the absence of the relevant instructions in legislative acts or the contract, payment for work performed by the contractor is made in accordance with Article 623 of this Code.

2. In case of construction on a “turnkey basis”, price specified in the contract is paid, unless otherwise provided by agreement of the parties, in full after the customer has accepted the object.

#### **Article 658. Submission of land plot for construction**

The customer shall be obliged to provide a land plot of such area and in such condition as specified in the contract for construction. If such indications are absent in the contract, area and state of the land plot shall ensure timely commencement of works, their normal maintenance and completion in time.

#### **Article 659. Additional obligations of the customer in construction object contract**

The customer shall be obliged, in cases and in order stipulated by the construction order contract, to transfer to the contractor building and structures necessary for implementation of works, to ensure transportation of goods to the contractor, temporary connection of power supply networks, water and steam lines, to provide other services. Payment is made on terms, stipulated by the contract.

#### **Article 660. Control and supervision of performance of works under the contract by the customer**

1. The customer may control and supervise progress and quality of performed works, observance of the period of their performance (schedule), quality of the materials supplied by the contractor, and also proper use of the customer's materials by the contractor without interference to everyday economic activity of the contractor.

2. The customer who has discovered deviations from terms and conditions of construction object contract, which may deteriorate quality of works or any other shortcomings during control and supervision over performance of works, shall be obliged to inform the contractor about this without delay. The customer who failed to make such statement to the contractor shall forfeit the right to refer to detected shortcomings in future.

3. The contractor shall be obliged to implement the customer's instructions, received during construction, unless such instructions contradict terms and conditions of construction object contract and are not intervention in everyday economic activity of the contractor.

4. Contractor who performed works improperly may refer to the fact that the customer failed to perform his/her/it control and supervision over their performance, except for the cases when the obligation to perform such control and supervision has been transferred to the customer by law or the contract.

#### **Article 661. Contractor's obligations on protection of the environment and provision of safety for building works**

The contractor may use during the work materials and equipment, supplied by the customer, or perform his/her/it instructions, if they may lead to breach of the requirements, binding for the parties, for protection of the environment and safety of building works.

#### **Article 662. Obligations of the parties during preservation of construction**

If, for reasons beyond the parties' control, work under construction object contract is suspended and construction object is shut down, the customer shall be obliged to pay the contractor in full for work completed before the moment of conservation, and to reimburse expenses incurred by the necessity to stop work and preserve construction.

#### **Article 663. Delivery and acceptance of the results of the work**

1. The customer who has received notification of the contractor about delivery of the result of works performed under the building contract or, if this is provided for by the contract, of performed stage of the works, shall be obliged to proceed to its acceptance.

2. The customer shall organize and accept the result of the works at his/her/it own expense, unless otherwise stipulated by the contract. In cases provided for by the law or any other legal acts the representatives of state bodies and local self-government bodies shall take part in acceptance of the result of the works.

3. The customer, who has accepted the result of particular stage of work, shall bear the risk of consequences of destruction or damage to the result of works which have taken place not due to the fault of the contractor.

4. Delivery of the result of work by the contractor and its acceptance by the customer shall be executed by the certificate, signed by both parties, and in cases, stipulated by legal acts - by representatives of state bodies and bodies of self-government. If one of the parties refuses to sign the certificate, a notification is made about it and certificate is signed by the other party.

Unilateral certificate of acceptance of the result of works may be recognized by court as invalid only in case of motives of refusal to sign the acceptance certificate have been recognized as sound.

5. In cases when this is provided for by the law or the contract or follows from the nature of the works performed under the contract, the acceptance of the result of the work shall be preceded by preliminary tests. In these cases acceptance of the results of work may take place only with the positive result of the preliminary tests.

6. The customer may refuse to accept the result of the work in case of discovery of shortcomings, which exclude the possibility of its use for the purpose, indicated in the contract and cannot be removed by the contractor, the customer or third party.

If other defects were discovered during acceptance, they shall be indicated in the certificate, provided for in paragraph 4 of this article.

7. In cases stipulated by legislative acts, constructed objects shall be accepted by the customer.

In case of commissioning of poorly constructed facilities, the customer shall be responsible, as established by the laws of the Republic of Kazakhstan.

**Footnote. Article 663 as amended by the Law of the Republic of Kazakhstan No. 269-V dated 29.12.2014 (shall be enforced since 01.01.2015)**

#### **Article 664. Contractor's liability for quality of works**

The contractor shall bear responsibility to the customer for deviations from the requirements, provided for by technical documents and by the building norms and rules binding for the parties, and also for failure to achieve this building project's indicators, indicated in the technical documents, including enterprise's industrial capacity.

In the event of reconstruction (renewal, reorganization, restoration, etc.) of building or structure the contractor shall bear responsibility for reduction or loss of durability, stability and reliability of building, structure or part thereof.

#### **Article 665. Guarantees of quality in building contract**

1. Unless otherwise stipulated by the building contract, the contractor shall guarantee achievement of the indicators indicated in design and estimate documents by the construction project and possibility of project use in accordance with building contract throughout the guarantee period. The guarantee period is ten years from the date of the acceptance of the object by the customer, unless different guarantee period is provided for by legislative acts or the contract.

2. The contractor shall be responsible for defects discovered within the guarantee period, unless he/she/it proves that they arose due to normal wear and tear of the object or its parts, improper operation or incorrect instructions for its operation, developed by the customer or involved third parties, improper repair of the object produced by the customer or by third parties engaged by him/her/it.

3. The guarantee period is suspended for the entire time during which the object could not be used due to defects (deficiencies) for which the contractor is responsible.

4. If, during the guarantee period, the defects specified in paragraph 4 of Article 630 of this Code are detected, the customer shall declare them to the contractor within the reasonable time after their detection.

5. Construction contract may provide for the right of the customer to withhold the part of the price specified in the contract for the price of work till the end of the guarantee period.

#### **Article 666. Removal of defects at the expense of the customer**

1. Building contract may provide for the obligation of the contractor to remove the defects (deficiencies) for which the contractor is not responsible on demand of the customer and at his/her/it expense.

2. The contractor may refuse to perform the obligation, indicated in paragraph 1 of this Article, in cases when they are not related with the subject of the contract or cannot be performed by the contractor for the reasons beyond his/her/it control.

#### **Paragraph 4. Features of design and survey works**

#### **Article 667. Contract for design and survey works**

1. Under the contract for design and survey works the contractor (designer or surveyor) shall develop technical documentation of the customer and (or) perform survey works, whereas the customer shall accept and pay for their result.

2. Unless otherwise provided by the legislative acts or the contract for design and (or) survey work, the risk of accidental impossibility of performance of the contract for design and survey work is related to the customer.

#### **Article 668. Initial data for performance of design and survey works**

1. Under the contract for design and survey works the customer shall be obliged to give to the contractor an assignment for design, and also other initial data needed for drawing up design and estimate documentation. Assignment for performance of design work may be prepared by the contractor on behalf of the customer. In this case the assignment shall become binding upon the parties since its approval by the customer.

2. The contractor shall be obliged to observe the requirements containing in the assignment and in other initial data for the performance of design and survey works, and may to deviate from them only with the customer's consent.

#### **Article 669. Customer's obligations**

Under the contract for design and survey works the contractor shall be obliged unless otherwise provided by the contract:

1) to pay the fixed price to the contractor after completion of the work or pay it in installment after completion of individual stages of work;

2) to use design and estimate documentation received from the contractor only for the purposes stipulated by the contract, not to transfer design and estimate documentation to third parties and not to disclose the data contained in it without the consent of the contractor;

3) to render services to the contractor during implementation of design and survey works in the scope and on terms, stipulated in the contract;

4) to participate together with the contractor in coordination of the finished design and estimate documentation with the competent state bodies and bodies of local self-government;

5) to reimburse the contractor additional costs caused by changes in the source data for design and survey work due to circumstances beyond the control of the contractor;

6) to attract the contractor by claim, made against the customer by third party due to defects in prepared design and estimate documentation or performed survey work.

#### **Article 670. Contractor's obligations**

Under the contract for design and survey works the contractor shall be obliged:

1) to perform works in accordance with the initial data on design submitted during contract conclusion;

2) to coordinate finished design and estimate documents with the customer and, if necessary, together with the customer - with competent state bodies and local self-government bodies.

3) unless otherwise provided by the contract, to transfer finished design and estimate documents and the results of survey works to the customer;

4) not to transfer design and estimate documents to the third parties without the customer's consent.

#### **Article 671. Contractor's guarantee**

The contractor under the contract for design and survey works guarantees the customer the absence of the right of third parties to prevent or restrict performance of work on the basis of design and estimate documentation prepared by the contractor.

#### **Article 672. Contractor's liability for improper performance of design and estimates documentation and design and survey work**

1. Under the contract for design and survey works the contractor shall bear responsibility for improper execution of technical documents and for performance of survey works, including defects discovered during construction, and also during exploitation of the project, created on the basis of the technical documents and data of survey works.

2. If defects in technical documents or in survey works were discovered the contractor shall be obliged to rewrite technical documentation on the customer's demand and to perform necessary additional survey works, and also to reimburse to the customer the losses caused, if the law or the contract establishes otherwise.

3. Requirements arising from defects in project documentation may be presented by individual, using project documentation, even if it was not a customer of its production.

#### **Paragraph 5. Performance of research and development and technological works**

#### **Article 673. Contracts for performance of research and development and technological works**

1. Under the contract for performance of research and development and technological works the contractor (executor) shall be obliged to perform a scientific research, specified by the customer's technical assignment, while under the contract for development and technological works he/she/it shall be obliged to develop the sample of new product, develop design documentation or new technology for it, whereas the customer shall accept the work and pay for it.

2. The contract with the contractor (executor) may cover both the entire cycle of the research, development and manufacture of the sample of the new product and its particular elements.

#### **Article 674. Performance of works**

1. The contractor (executor) shall be obliged to perform scientific research independently. Unless otherwise provided by the contract, it can engage third persons to implementation of the contract for research works only with the customer's consent.

2. During performance of development or technological works the contractor may, unless otherwise stipulated by the contract, attract third persons as subcontractors.

#### **Article 675. Delivery, acceptance and payment of works**

The contractor (executor) shall be obliged to deliver, and the customer to accept and to pay for completed research, development and technological works. The contract may provide for the acceptance and payment of individual stages of work or another method of payment.

#### **Article 676. Confidentiality of information on the contract**

Unless otherwise stipulated by the contracts for performance of research and development and technological works:

1) both the contractor (executor) and the customer shall be obliged to ensure confidentiality of information related to subject of the contract, progress of its execution and obtained results. Scope of information, recognized as confidential, shall be determined in the contract;

2) the contractor shall be entitled to patent the results of work, received under these contracts only with the consent of the customer.

#### **Article 677. Rights of the parties to the results of the work**

1. The parties of the contract for performance of research and development and technological works may use the results of work within the framework of the contract and on terms and conditions stipulated by the contract.

2. Unless otherwise stipulated by the contract, the contractor (executor) shall be entitled to use the received result of work for itself.

3. The contract may provide for the right of the contractor (executor) to implement the results of work to third parties.

#### **Article 678. Customer's obligations**

In contracts for performance of research and development and technological work the customer shall be obliged to:

- 1) provide assignment to the contractor (executor) and agree programme or subject of the work with it (technical and economic parameters);
- 2) provide information required for performance of the work to the contractor (executor);
- 3) accept the results of performed work and to pay for them (Article 623 of this Code).

#### **Article 679. Contractor's (executor's) obligations**

1. The contractor (executor) under the contract for performance of research and development and technological works shall be obliged to:

- 1) perform works in accordance with programme (technical and economic parameters) or subject and to deliver the result to the customer within the period fixed by the contract;
- 2) follow the requirements, related to legal protection of intellectual property;
- 3) to remove defects, made due his/her/it guilt, in performed works with his/her/its own forces and at his/her/its own expense, if they can involve deviations from technical and economic parameters, stipulated by the technical assignment or the contract;
- 7) inform the customer about the impossibility to receive expected results or about inexpediency of continuing the work;
- 5) guarantee of absence of exclusive rights of the third parties on the results transferred on the basis of such agreement to the customer.

2. Unless otherwise stipulated by the contracts for research, development and technological works, the contractor (executor) shall be obliged:

- 1) to refrain from publishing of scientific and technical results, obtained during performance of work, without the consent of the customer;
- 2) take measures for protection of the results, obtained during performance of works capable of legal protection of the results and to inform the customer;
- 3) provide the customer with exclusive license to use scientific and technical results with legal protection applied in the performed work.

#### **Article 680. Consequences of impossibility to achieve results of scientific and research works**

If during the course of scientific research works it was found out that it is impossible to achieve the results due to to the circumstances which are beyond to contractor's (executor's) control, the customer shall be obliged to pay for the works, performed before detection of impossibility to achieve the results, stipulated by the contract



for performance of scientific research works, but not more than corresponding part of price of the work, indicated in the contract.

#### **Article 681. Consequences of impossibility to achieve the results of development and technological works**

If during performance of development and technological works it was found out that impossibility to continue works has arisen not to the guilty of the contractor, the customer shall be obliged to pay for the expenses incurred by the contractor.

#### **Article 682. Liability of the contractor (executor) for breach of the contract**

1. The contractor (executor) shall be responsible to the customer for failure to perform or improper performance of the contract for research, development and technological works, if he/she/it did not prove that the contract was violated through no fault of Contractor (executor)

2. The contractor (executor), which violated terms of the contract, shall be obliged to compensate losses of the customer in form of real damage unless otherwise stipulated by the contract.

### **Chapter 33. Compensated rendering of services**

#### **Article 683. Contract for compensated rendering of services**

1. Under the contract of compensated rendering of services the contractor shall render services (to perform certain actions or carry out certain activity), while the customer shall pay for these services.

2. The rules of this Chapter shall be applicable to the contracts for provisions of communication, medical, veterinary, audit, consulting, information services, instruction services, tourist and other services except for the services rendered under the contracts, stipulated by Chapters 32, 34, 35, 39, 41, 43, 44 of this Code.

**Footnote. Article 683 as amended by the Law of the Republic of Kazakhstan dated 19.12.2020 No. 386-VI (shall be enforced upon expiration of ten calendar days after the date of its first official publication).**

#### **Article 684. Performance of the contract for compensated rendering of services**

Unless otherwise stipulated by the contract for compensated rendering of services, the contractor shall be obliged to render the services personally.

#### **Article 685. Payment for services**

1. The customer shall be obliged to pay for the services rendered to him/her/it within the period and in the procedure indicated in the contract for compensated rendering of services.

2. If it is impossible to perform the contract through the fault of the customer, the services rendered shall be subject to full payment, unless otherwise stipulated by the law or the contract for compensated rendering of services.

2. When it is impossible to perform the contract due to the circumstances for which neither party is responsible, the customer shall reimburse the executor's actual expenses, unless otherwise provided for by the law or the contract.

#### **Article 686. Unilateral refusal to perform the contract for compensated rendering of services**

1. The contractor may refuse to perform the contract for compensated rendering of services, provided that the contractor's actually incurred expenses are paid out.

2. The contractor may refuse to perform obligations under the contract for the compensated rendering of services, provided that the customer's losses are fully reimbursed, incurred due to termination of the contract, except for the case, when it was due to the fault of the customer.

#### **Article 687. Legal regulation of the contract for compensated rendering of services**

General provisions of the contract (Articles 616-639 of this Code) and provisions on the domestic contract (Articles 640-650 of this Code) shall be applicable to the contract for compensated rendering of services, unless it does not contradict to Articles 683-686 of this Code, and also to the specific subject of the contract for compensated rendering of services.

#### **Article 687-1. Contract for provision of outstaffing services**

In accordance with a contract for the provision of outstaffing services, one party (the seconding party) shall send its employee to perform work in the interests, under the direction and control of the other party (the receiving party).

**Footnote. Chapter 33 is amended with Article 687-1 in accordance with the Law of the Republic of Kazakhstan dated 19.12.2020 No. 386-VI (shall be enforced upon expiration of ten calendar days after the date of its first official publication).**

### **Chapter 34. Carriage**

#### **Article 688. General provisions**

1. Carriage of cargo, passengers and baggage shall be carried out on the basis of a Carriage agreement.

2. General provisions of carriage shall be defined by the legislative acts on transport, other legislative acts and relevant regulations.

Conditions of carriage of cargo, passengers and baggage by certain types of vehicles shall be determined by agreement of the parties, unless otherwise stated by the Code, legislative acts on transport, other legislative acts and relevant regulations.

#### **Article 689. Cargo carriage agreement**

1. Under the Contract for the carriage of goods, one party (carrier) shall deliver cargo, entrusted to the party by the other party (consignor), to the destination point and transfer the cargo to the authorized person (consignee), and the consignor undertake pay for cargo carriage as per the agreement or stated rates.

2. Contract for the carriage of cargo shall be executed by drawing up bill of lading, consignment note, waybill or other document on cargo, stipulated by the legislative acts on transport.

#### **Article 690. Passenger Carriage Contract**

1. Under the Passenger Carriage Contract, a carrier shall transport a passenger to the destination point, and in case of the baggage checking in, shall also deliver such baggage to the destination point and hand the baggage over to the authorized person; the passenger shall pay for carriage, and in case of the baggage checking in - for delivery of the baggage.

2. Contract on carriage of passenger and baggage shall be executed respectively by travel ticket and baggage ticket. Form of travel ticket and baggage ticket shall be defined in order set forth by the legislative acts on transport.

#### **Article 691. Cargo (Charter) contract**

Under the charter contract, one party (charter) shall provide to the other party (charterer) all or part of capacity of one or more vehicles for one or several trips for carriage of passengers, baggage and cargo for relevant payment.

Procedure for conclusion of charter contract, contract form and its types shall be defined by the legislative acts on transport.

#### **Article 692. Carriage arrangement agreements**

Carrier and consignor may conclude long-term agreements on arrangement of carriage in case of need of regular carriage.

Under the Cargo Carriage Arrangement Agreement, the carrier shall accept, and consignor shall provide cargo for carriage in stated volume and terms.

Carriage Arrangement Agreement stipulates volumes, terms, quality of carriage and other terms of provision of vehicles and presentation of cargo for carriage, as well as other conditions for carriage arrangement, not stipulated by the legislative acts.

#### **Article 693. Agreements between carriage providers**

Agreements for arrangement of cargo carriage (hub agreements, agreements for centralized shipment (conveyance) of cargo, e.t.c.) may be concluded between various carriage providers.

Procedure for conclusion of such agreements shall be determined by the legislative acts on transport.

#### **Article 694. Combined carriage**

Relations in case of carriage by two or more types of transport (combined carriage) by a common bill of lading (common consignment note), as well as arrangement of such carriage, shall be determined by agreements between the parties of combined carriage, concluded as per the legislative acts on transport of the Republic of Kazakhstan.

**Footnote. Article 694 as amended by Law of the RoK dated 27.10.2015 No. 363-V (shall be enforced upon the expiry of ten calendar days after its first official publication).**

#### **Article 695. Carriage by transport for common use**

1. Carriage, provided by commercial company, shall be deemed to be a carriage by transport for common use, if the legislative acts, other regulatory legal acts or license (patent) issued to such company stipulates that this company shall carry out carriage of passengers, cargo and (or) baggage by request of any citizen or legal entity.

2. Agreement for carriage by transport for common use is a standard form contract (article 387 of the Code).

#### **Article 696. Provision of transport means, cargo loading/unloading**

1. Carrier shall provide properly functioning transport means, suitable for relevant cargo carriage, to consignor for loading in terms set forth by accepted request (order), Carriage agreement.

Consignor is entitled to reject provided transport means, not suitable for carriage of relevant cargo.

2. Loading (unloading) of cargo is carried out by carriage provider or consignor (consignee) in order and terms, stipulated by agreement, in accordance with requirements set by legislative acts on transport and related regulations.

3. Loading (unloading) of cargo, carried out by means of consignor (consignee) of cargo, shall be implemented in terms, stipulated by agreement, unless such terms are not specified by legislative acts on transport and related regulations.

#### **Article 697. Carriage charge**

1. Payment is charged for carriage of cargo, passengers and baggage, such charge is defined by agreement of the parties, unless otherwise stipulated by legislative acts.

2. Carriage charge for cargo, passengers and baggage by common use transport shall be determined on the basis of tariffs, approved in order set forth by the legislative acts on transport.

3. Works and services performed by request of cargo owners and not stipulated by tariffs, shall be paid by agreement of the parties.

4. Carrier is entitled to withhold cargo and baggage transferred for carriage as a security for carriage charge and other payments for carriage (article 292 of the Code), unless otherwise stipulated by the legislation, carriage agreement or essence of obligation.

#### **Article 698. Term for delivery of cargo, passenger and (or) baggage**

Carrier shall deliver cargo, passenger and (or) baggage to the destination point in terms, specified by the legislative acts on transport and related carriage regulations. If term for delivery of cargo, passenger or baggage is not specified, and not agreed by the parties in the agreement, delivery shall be provided in reasonable terms.

#### **Article 699. Right on cargo disposal**

1. Consignor or owner of document of title to cargo may require termination of carriage or return of cargo or make another order to the carrier. In this case carrier is entitled to demand payment for actually performed carriage, as well as demand reimbursement of costs incurred by the carrier in relation to made order.

2. Consignor shall forfeit the right specified above at the moment of cargo handover at the destination point to consignee upon arrival of the cargo to the destination point.

3. In case of evasion of consignee of obligations on acceptance of cargo, requiring special storage conditions (perishable), and in absence of instructions from consignor on disposal of such cargo, when storage of the cargo is impossible and may lead to its spoilage, the carrier is entitled to distribute the cargo.

Amount received from distribution of the cargo shall be placed under conditions of deposit for notary name with deduction of amount payable to the carrier.

**Footnote. Article 699 is amended by Law of the RoK dated December 6, 2001. No.260.**

#### **Article 700. Rights of passengers**

Passenger has the right for the following in order stipulated by the legislative acts on transport:

- 1) to carry children free of charge or on the basis of other favourable terms;
- 2) to transport carry-on baggage within specified limits free of charge;
- 3) to transfer baggage for carriage for tariff charge.

#### **Article 701. Liability for violation of carriage obligations**

1. In case of failure of fulfillment or improper fulfillment of carriage obligations, the parties shall be liable as per the Code, legislative acts on transport and other legal acts, as well as agreement of the parties.

2. Agreements of carriage providers with passengers and consignors (consignees) on limitation or elimination of liability, set forth by the legislative acts, are null and void, other than such agreements are stipulated by the legislative acts on transport.

**Footnote. Article 701 as amended by Law of the Republic of Kazakhstan No. 49-VI dated 27.02.2017 (shall be brought to effect upon the expiry of ten calendar days after its first official publication).**

#### **Article 702. Liability of carrier for failure of provision of transport means and liability of consignor for failure of use of provided transport means**

1. Carrier shall be liable for -provision of transport means for carriage of cargo in accordance with accepted request (order) or other agreement, and consignor shall be liable for failure of provision of cargo or failure of use of provided transport means by other reasons, as per the legislative acts and agreement of the parties.

2. Carrier and consignor shall be exempted from liability in case of failure of provision or late provision of transport means or failure of use of transport means, occurred due to the following reasons:

- 1) force majeure;
- 2) suspension or limitation of cargo carriage in certain directions, set in order as per the legislative acts on transport;
- 3) in other cases stipulated by the legislative acts.

#### **Article 703. Liability of carrier in case of direct mixed traffic**

Carriers shall bear joint and several liability towards consignor (consignee) in direct mixed traffic in case of loss, damage or shortage of cargo.

The last carrier shall bear liability for delay, unless the absence of carrier's fault on such delay is proved .

#### **Article 704. Liability of carrier for delay of passenger's departure**

1. Carrier shall pay a penalty to passenger in the amount specified in the legislative acts on transport, for delay of transport means or delay of arrival of such transport mean to the destination point (other than carriage in urban and suburban traffic), unless the carrier proves that the delay occurred due to force majeure circumstances.

2. In case of the passenger's cancellation of the carriage services due to delay in carrier vehicle departure, carrier shall return to the passenger carriage charge in full amount, as well as reimburse expenses incurred by the passenger due to delay.

## **Article 705. Liability of carrier for loss, short-delivery and damage of cargo or baggage**

1. Carrier shall ensure security of cargo or baggage from the moment of its acceptance for carriage, and up till its delivery to recipient or authorized person.

2. Carrier shall be liable for loss of cargo or baggage; unless it proves that loss, short-delivery or damage of cargo or baggage occurred not by its fault.

3. Damage, caused during carriage of cargo or baggage, shall be reimbursed by carrier:

1) in case of loss or short-delivery of cargo or baggage - in the amount of value of lost or missing cargo or baggage;

2) in case of damage of cargo or baggage - in the amount, by which its value has lowered, and in case of impossibility of its restoration - in the amount of its value;

3) in case of loss of cargo or baggage, transferred for carriage with declaration of its value - in the amount of declared value of cargo or baggage.

Value of cargo or baggage shall be defined on the basis of the price, specified in vendor's invoice or in the agreement, and if such price is not specified in the invoice or agreement, on the basis of the value of similar goods in corresponding circumstances.

4. In addition to reimbursement of determined losses, caused by loss, short-delivery or damage of cargo or baggage, carrier shall return to the consignor (consignee) the carriage charge, received for carriage of lost, missing or damaged cargo or baggage, if such charge is not included into cargo value.

5. Documents confirming the causes of failure to preserve the cargo or baggage (commercial act, common form act, etc.), filled in by carrier in unilateral manner, shall be subject to court assessment in case of a dispute, together with other documents certifying circumstances, which can be served as the basis for liability of carrier, consignor or consignee .

## **Article 706. Claims and actions in relation to cargo carriage**

1. Claim shall be submitted to carrier in order set forth by the legislative acts, prior to bringing of an action.

2. Limitation of action period for requirements related to cargo carriage shall be one year.

3. Provisions of this article do not cover requirements related to carriage of passenger or baggage.

## **Article 707. Liability of carrier for damage to life or health of passenger**

Liability of carrier for damage to life or health of passenger is defined by provisions of article 47 of the Code, unless carrier's enhanced liability is stipulated by the legislative acts or carriage agreement.

## **Charter 35. Cargo forwarding**

## **Article 708. Cargo forwarding agreement**

1. Under Cargo Forwarding Agreement, one party (cargo forwarder) shall for remuneration and at the expense of the other party (customer - consignor, consignee or other interested party) implement or arrange implementation of services, specified in the Cargo Forwarding Agreement, related to cargo carriage, including conclusion of Contract for the carriage of goods on own or customer's behalf.

As additional services, the Cargo Forwarding Agreement may stipulate execution of such required operations for cargo delivery as obtainment of documents required for import or export, execution of customs or other formalities, inspection of quantity and condition of the cargo, its loading and unloading, payment of fees, charges and other costs, imposed on the customer, storage of the cargo, its receipt in the destination point, as well as execution of other operations and services.

As agreed with the customer, the cargo forwarder may determine means of transport for customer's cargo, taking into account interests of the customer, tariffs and delivery terms.

2. In relation to issues not regulated by this charter, provisions of charter 41 of the Code are applicable to the Cargo Forwarder Agreement, if the cargo forwarder acts on behalf of the customer as per conditions of the agreement, and provisions of charter 43 of the Code - if the cargo forwarder acts on its on behalf.

**Footnote. Article 708 as amended by Law of the Republic of Kazakhstan dated 25.03.2011 No. 421-IV (shall be enforced upon the expiry of ten calendar days after its first official publication).**

#### **Article 709. Agreement form**

1. Cargo Forwarding Agreement shall be concluded in written form.

2. Customer shall issue the power of attorney to the cargo forwarder, if such power of attorney is required for fulfillment of its obligations.

**Footnote. Article 709 as amended by Law of the Republic of Kazakhstan dated 25.03.2011 No.421-IV (shall be enforced upon the expiry of ten calendar days after its first official publication).**

#### **Article 710. Documents and other information, provided to the cargo forwarder**

1. Customer shall provide to the cargo forwarder documents and other information on cargo properties, conditions of its carriage, and other information required for fulfillment of obligations by the cargo forwarder as per the agreement.

2. Cargo forwarder shall inform the customer on identified deficiencies of obtained information, and in case of failure of completeness of such information, shall request required additional data from the customer.

3. In case of failure of the customer to provide required information, the cargo forwarder is entitled not to initiate fulfillment of its obligations till provision of such information.



4. Customer shall be liable for losses, caused to cargo forwarder due to violation of obligations related to provision of information, specified in paragraph 1 of this article.

**Footnote. Article 710 as amended by Law of the Republic of Kazakhstan dated 25.03.2011 No.421-IV (shall be enforced upon the expiry of ten calendar days after its first official publication).**

#### **Article 711. Execution of obligations of the cargo forwarder by the third party**

1. Cargo forwarder is entitled to involve third parties to execution of its obligations, unless the Cargo Forwarding Agreement stipulates personal execution of such obligations.

2. Transfer of obligations to the third party shall not exempt the cargo forwarder from liability towards the customer for execution of the agreement.

#### **Article 712. Lien**

Cargo forwarder has the right to retain the cargo in its possession only due to failure of payment of remuneration payable for cargo forwarding services.

#### **Article 713. Liability of cargo forwarder under the Cargo forwarding agreement**

1. Cargo forwarder shall be liable for failure of fulfillment or improper fulfillment of obligations under the Cargo Forwarding Agreement on the basis and in the amount set as per regulations of charter 20 of the Code.

2. If cargo forwarder proves that violation of obligations is caused by improper execution of carriage agreement, liability of the cargo forwarder towards the customer shall be determined by the same rules as the liability of relevant carrier towards the cargo forwarder.

**Footnote. Article 713 as amended by Law of the Republic of Kazakhstan dated 25.03.2011 No.421-IV (shall be enforced upon the expiry of ten calendar days after its first official publication).**

#### **Article 714. Unilateral repudiation of the Cargo forwarding agreement**

1. Customer or cargo forwarder have the right to repudiate the Cargo Forwarding Agreement with notification of the other party in reasonable term.

2. In case of unilateral repudiation of the Cargo Forwarding Agreement, the party, calling for repudiation, shall reimburse to the other party all losses caused by termination of the agreement.

**Footnote. Article 714 as amended by Law of the Republic of Kazakhstan dated 25.03.2011 No.421-IV (shall be enforced upon the expiry of ten calendar days after its first official publication).**

### **Chapter 36. Loan**

## **Article 715. Loan agreement**

1. Under the Loan Agreement one party (lender) shall transfer, and in cases, stipulated by the Code or the agreement, shall be obliged to transfer to possession (operational control) of the other party (borrower) money or fungible property, and the borrower shall return the same amount of money or the same quantity of property items of the identical type and quality.

2. Agreements, execution of which is related to transfer of money or fungible property, may stipulate provision of a loan, including in form of advance, preliminary payment, deferment or instalment plan for payment of goods (works or services), unless otherwise stipulated by the legal acts and not contradictory to the essence of relevant obligations.

2-1. Individual entrepreneurs and legal entities shall be prohibited from providing money in the form of a loan to citizens and such agreements shall be void.

This prohibition shall not apply to the cases provided by Paragraph 2 of this Article, as well as to cases of providing money in the form of bank loans and microcredits in accordance with the laws of the Republic of Kazakhstan, a loan from an employer to an employee, a pensioner who previously had an employment relationship with this employer, as well as a loan by a legal entity to its founder (shareholder, participant).

3. Loans from citizens as business activities are not allowed for citizens and legal entities, and such agreements are null and void.

This prohibition shall not cover cases, when lenders are presented by banks with the license on acceptance of deposits from authorized state body, as well as cases, when money is accepted for exchange on securities, issue of which is registered in legally stated order.

**Footnote. Article 715 as amended by Law of the Republic of Kazakhstan dated 10.07.2003 No.483 (shall be enforced on 01.01.2004); dated 27.02.2017 No.49-VI (shall be enforced upon the expiry of ten calendar days after its first official publication); dated 03.07.2019 No. 262-VI (shall be enforced from 01.07.2020).**

## **Article 716. Loan agreement form**

1. Loan Agreement shall be concluded in form as per regulations of articles 151-152 of the Code.

2. Loan Agreement shall be deemed to be concluded in proper written form in presence of bond, receipt of a borrower or other document certifying transfer of certain amount or certain number of property items from a lender.

## **Article 717. Conclusion of Loan agreement**

Loan Agreement is considered to be concluded from the moment of transfer of money or property items, unless otherwise stipulated by the Code or agreement of the parties.

If the agreement stipulates transfer of money or property in parts (installments), it is considered to be concluded from the moment of transfer of the first part, unless otherwise stipulated by the agreement.

#### **Article 718. Fee under Loan agreement**

1. Borrower shall pay a fee to the lender in the amount set forth by the agreement, unless otherwise stipulated by the legal acts of the Republic of Kazakhstan or the agreement.

Fee under Loan Agreement, concluded with a lender - individual, shall be determined with consideration of regulations of article 725-1 of the Code.

2. Protection of the rights of borrowers of banks, organizations engaged in certain types of banking operations shall be ensured by setting the maximum size of the annual effective interest rate, including remuneration, all types of commissions and other fees charged in connection with the issuance and servicing of a loan, and calculated in the manner determined by the legislation of the Republic Kazakhstan.

Protection of the rights of borrowers of organizations engaged in microfinance activities shall be ensured by measures provided by the legislation of the Republic of Kazakhstan on microfinance activities.

The maximum size of the annual effective interest rate shall be determined by the regulatory legal act of the authorized authority for regulation, control and supervision of the financial market and financial organizations.

3. If under the Loan Agreement a borrower receives property items, payment of interest shall be made, subject to specification of its amount and form (monetary or natural) by the agreement.

4. Procedure and terms of interest payment shall be determined by the loan agreement.

If procedure and terms of interest payment are not specified by the agreement, it shall be paid on an annual basis.

5. If a borrower does not return loaned property in specified terms, interest shall be paid for the whole period of using the loaned property, unless otherwise provided by the laws of the Republic of Kazakhstan "On Banks and Banking Activities in the Republic of Kazakhstan" and "On microfinance activities".

**Footnote. Article 718 as amended by Law of the Republic of Kazakhstan dated 10.02.2011 No. 406-IV (shall be enforced upon the expiry of ten calendar days after its first official publication); as amended by Law of the Republic of Kazakhstan dated 05.07.2012 No. 30-V (shall be enforced upon the expiry of ten calendar days after its first official publication); dated 26.11.2012 No. 57-V (shall be enforced upon the expiry of ten calendar days after its first official publication); dated 02.07.2018 No. 168-VI (shall be enforced upon the expiry of ten calendar days after its first official publication); dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020); dated 24.05.2021 No. 43-VII (shall be enforced from 01.10.2021).**

## **Article 719. Provision of loaned property**

1. Loaned property shall be provided in terms, amount and under conditions, specified by the agreement.

Unless otherwise stipulated by the agreement, loaned property is considered to be provided at the moment of its transfer to a borrower or transfer of relevant amount of money to his/her banking account.

2. Borrower is entitled to reject loaned property in full or in part with notification of a lender in terms, specified by the agreement, unless stipulated otherwise by legal acts or agreement.

3. In case of provision of fungible property into the loan, following conditions on its quantity, assortment, completeness, quality, container and (or) packing materials shall be executed as per regulations of the sale and purchase agreement (articles 406-49

2 of the Code), unless otherwise stipulated by the agreement.

## **Article 720. Target-oriented loan**

1. Unless otherwise stipulated, a loan is considered as no-purpose loan, and a borrower may use it at his/her own discretion.

2. In cases, when the agreement is concluded on conditions of the loaned property use for special purposes (target-oriented loan), a lender is entitled to control purpose use of the loan, and a borrower shall arrange such control from the lender part.

3. In case of the borrower's failure to use the loan for special purpose, and to fulfill obligations of paragraph 2 of this article, the lender is entitled to may repudiate the agreement in relation to not provided part of the loan, and to demand from the borrower to return the loan and related interest ahead of the schedule.

## **Article 721. Securing performance of obligations of borrower**

1. Performance of obligations of the borrower in relation to return of the loan and related interest may be secured by methods, described in this Code. In this case the borrower shall provide the lender with opportunity to control loan security, unless otherwise stipulated by legal acts or agreement.

2. In case of failure of the borrower to secure return of the loan and payment of interest, as well as in case of loss of security or deterioration of its conditions due to circumstances, not related to the lender, the lender is entitled to repudiate the agreement in relation to failure of provided part of the loan and to demand from the borrower to return the loan and pay interest ahead of the schedule.

## **Article 722. Return of the loan**

1. Borrower shall return the loan in order and terms, stipulated by the agreement.

Unless otherwise stipulated by the agreement, the loan is considered to be returned at the moment of its transfer to the lender or transfer of relevant amount of money to its banking account.

If the agreement does not stipulate the terms for return of the loan, it shall be returned by the borrower within thirty days from the date of demand from the lender.

Loan, provided without condition on interest payment, may be returned ahead of the schedule. Loan, provided with condition on interest payment, may be returned ahead of the schedule subject to approval of the lender or relevant provision of the agreement.

Interest for loan may be returned ahead of the schedule in any time, unless otherwise stipulated by the agreement.

2. As agreed by the lender, obligations of the borrower may be executed: under loan agreement for money - by acceptance of fungible property on account of debt repayment; under loan agreement for property items - acceptance of property on account of debt repayment. Value of such property shall be determined by agreement of the parties.

3. If the agreement stipulates return of the loan in parts (instalments), violation of terms for return of the loan parts by the borrower, the lender is entitled to demand advance repayment of remaining part of the loan and related interest, as well as to satisfy demands by foreclosure (subparagraph 4) paragraph 2 article 321 of the Code).

4. If the agreement stipulates payment of interest in terms ahead of terms of return of the loan itself, violation of terms for payment of interest gives the right to the lender to demand from the borrower return of the loan ahead of the schedule with related interest, and to satisfy demands by foreclosure (subparagraph 4) paragraph 2 article 321 of the Code).

**Footnote. Article 722 as amended by Law of the Republic of Kazakhstan dated 17.07.2015 No. 333-V (shall be enforced upon the expiry of ten calendar days after its first official publication).**

#### **Article 723. Terms for satisfaction of demand for early return of the loan**

In case of demand of the lender to return the loan ahead of the schedule on the basis, specified in paragraph 3 article 720, paragraph 2 article 721, paragraphs 3 and 4 article 722, new terms of return of the loan and payment of interest shall be determined as per regulations of paragraph 1 article 722 of the Code.

#### **Article 724. Loan agreement disputing**

1. Borrower is entitled to dispute the loan agreement, proving that the loan (money or property) was actually received by the borrower not from the lender or was received in less amount or quantity, than it is specified in the agreement.

2. In cases when the loan agreement is to be executed in written form (article 716 of the Code), its disputing by witness evidences is not allowed, other than cases, when the agreement was concluded under influence of deception, forcing, threat, malicious collusion of representatives of the parties or concurrence of difficult circumstances (paragraphs 9 and 10 article 159 of the Code).

#### **Article 725. Novation as the loan agreement obligation**

1. As agreed by the parties, any obligation, arising out of sale/purchase transactions, property lease transactions or on other basis, may be executed as a loan agreement.

2. Execution of an obligation as the loan agreement shall be proceeded with adherence to requirements on novation (article 372 of the Code) and shall be concluded in a form stipulated for loan agreements (article 716 of the Code).

#### **Article 725-1. Features of loan agreement concluded with the individual as a lender**

1. Loan agreement, concluded with individual as a lender, has the following features:

1) the loan is constituted by money or fungible property, including those provided with deferment or instalment plan;

2) in the loan agreement the lender is an individual, not being an individual entrepreneur;

3) loan is provided in the national currency of the Republic of Kazakhstan;

4) loan agreement includes annual interest rate on a mandatory basis, which calculated as per regulations of paragraph 3 of this article;

5) annual effective interest rate under the loan agreement cannot exceed one hundred percent, including case of change of loan return terms;

6) amount of a penalty for violation of obligation on return of the loan and (or) payment of interest under the loan agreement shall not exceed 0,5 percent of the amount of outstanding obligation for each day of delay, but not more than ten percent of the amount of granted loan per annum;

7) all payments of the borrower under the loan agreement, including interest, penalties, fees and other payments, stipulated by the loan agreement, in the aggregate shall not exceed the amount of granted loan for all period of the loan agreement;

8) indexation of obligation and payments under the loan agreement with reference to any currency equivalent shall not be allowed;

9) conditions of the loan agreement on the amount of interest, penalty, fees and other charges shall not be changed for increasing.

Requirements of subparagraphs 4), 5), 6), 7), 8) and 9) of part one of this paragraph cover the loan agreement, subject matter of which is fungible property, if such loan agreement stipulates repayment of debt by money, and payment of interest, penalty, fees and other charges is proceeded in monetary form.

2. Loan agreement, concluded with a lender-individual, not complying with provision of paragraph 1 of this article, is null and void.

3. The rules for calculating the annual effective interest rate under a loan agreement shall be determined by the regulatory legal act of the authorized authority for regulation, control and supervision of the financial market and financial organizations.

4. Regulations on loan agreements are applicable to loan agreements with lender-individual, taking into account features, described in this article.

5. Provisions of this article shall not cover loan agreements, in which lenders are persons, specified in paragraph 2 article 718 of the Code.

**Footnote. Charter 36 as amended by adding article 725-1 as per Law of the Republic of Kazakhstan dated 02.07.2018 No. 168-VI (shall be enforced upon the expiry of ten calendar days after its first official publication); as amended by the laws of the Republic of Kazakhstan dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).**

#### **Article 726. State loan agreement**

1. Under the State Loan Agreement, the lender is the State, and the borrower is a citizen or a legal entity.

2. State loans are voluntary.

3. State Loan Agreement is concluded by acquisition of issued state bonds by the borrower, or other state securities (certificated and failure of certificated), certifying right of the lender on receipt of loaned money from the borrower, or depending on loan conditions, other property equivalent, specified interest or other property rights in terms stipulated by terms of issue for this loan.

4. Borrower is liable for its obligations under the state loan agreement by property of public treasury.

5. Features of participation of the Republic of Kazakhstan in relation to state loan may be determined by the legal acts.

#### **Article 727. Bank loan agreement**

1. Under Bank Loan Agreement, the lender is obliged to transfer money to the borrower as the loan on the basis of payment of interest, maturity, repayment.

1-1. If a lender in the Bank Loan Agreement is an Islamic bank, then the loan is provided on the basis of maturity and repayment, and without payment of interest.

2. Regulations on loan agreement shall be applicable to bank loan agreements, taking into account features, described in article 728 of the Code.

**Footnote. Article 727 as amended by Law of the Republic of Kazakhstan dated 23.12.2005 No. 107 (procedure for bringing in force in art.2); dated 12.02.2009 No. 133-IV (procedure for bringing in force in art.2).**

## **Article 728. Features of a bank loan agreement, a microcredit agreement, and a syndicated loan agreement**

**Footnote.** The heading of Article 728 is as amended by the Law of the Republic of Kazakhstan dated 02.01.2021 No. 399-VI (shall be enforced upon expiration of ten calendar days after the date of its first official publication).

Bank loan agreement and microcredit agreement have the following features:

- 1) in bank loan agreement, the lender is a bank or other legal entity with license for banking borrowing operations from authorized state body;
- 2) an organization carrying out microfinance activities acts as a lender under a microcredit agreement;
- 3) subject matter of bank loan agreement and microcredit agreement is money provided in the future. In such case, bank loan agreement and microcredit agreement are considered to be concluded from the moment of execution (paragraph 1 article 393 of the Code), unless otherwise stipulate by agreements;
- 4) bank loan agreement and microcredit agreement shall be concluded in written form. Failure to conclude bank loan agreement and microcredit agreement in written form makes them null and void;
- 5) a bank loan agreement, a microcredit agreement cannot contain a condition providing for the right of a bank or other legal entity licensed by an authorized state authority for banking lending operations, an organization carrying out microfinance activities, to unilaterally amend the terms of the agreement, unless otherwise provided by legislative acts of the Republic of Kazakhstan;
- 6) the provisions of Paragraph 2 of Article 722 of this Code shall not be applied to a bank loan agreement, a microcredit agreement, except for the cases provided by the banking legislation of the Republic of Kazakhstan or the legislation of the Republic of Kazakhstan on microfinance activities;
- 7) provisions of paragraphs 3 and 4 of article 722 of the Code shall be applicable to bank loan agreement, microcredit agreement in case of violation of the borrower in relation to terms set for return of scheduled part of the loan, microcredit and (or) payment of interest, for the period over forty calendar days;
- 8) the issuance of a security ticket by a pawnshop shall be equated to the conclusion of a microcredit agreement.

Banks are not allowed to issue loans, secured by shares, issuer of which is the bank, or to issue loans for purchase of such shares.

Features of mortgage loan, provided to individuals, shall be determined by the Law of the Republic of Kazakhstan "On banks and banking activities in the Republic of Kazakhstan".

The features of a syndicated loan agreement shall be determined by the legislation of the Republic of Kazakhstan of project financing and securitization.



Footnote. Article 728 as amended by Law of the Republic of Kazakhstan dated 24.11.2015 No. 422-V (shall be enforced since 01.01.2016); as amended by Law of the Republic of Kazakhstan dated 27.02.2017 No. 49-VI (shall be enforced upon the expiry of ten calendar days after its first official publication); dated 02.07.2018 No.168-VI (shall be enforced upon the expiry of ten calendar days after its first official publication); dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020); dated 02.01.2021 No. 399-VI ( shall be enforced upon expiration of ten calendar days after the date of its first official publication).

## **Charter 37. Factoring**

### **Article 729. Factoring agreement**

1. Under the factoring agreement, one party (broker) transfer or undertakes to transfer money into the possession of the other party (client), and the client assigns or undertakes to assign its monetary claim to the third party, which arising out of relations of the client ( creditor) with such third party (debtor), to the broker.

Monetary claim to the debtor may be assigned by the client to the broker for the purpose of security of client's obligation towards the broker.

2. Obligations of the broker under the factoring agreement may include maintenance of accounting for the client and submission of documents relating to monetary claims (invoicing on monetary claims), subject of assignment, and provision of other financial services related to such claims.

3. General rules on assignment of claim, specified by the Code (articles 339-347 of the Code) shall be applicable to factoring, unless otherwise stipulated by this charter.

### **Article 730. Factoring agreement form**

Factoring agreement shall be concluded in written form with adherence to requirements, specified in article 346 of the Code.

### **Article 731. Monetary claim, assigned for financing**

1. Subject of assignment for financing may be monetary claim, which has already matured (current claim), or right for receipt of money, which will occur in the future (future claim).

Monetary claim under assignment shall be determined in the agreement of the client with the broker in such way that allows identification of current monetary claim at the moment of conclusion of the agreement, and future claim - not later than at the moment of its occurrence.

2. Current monetary claim is considered to be transferred to the broker from the moment of conclusion of the agreement, unless otherwise stipulated by the agreement.

In case of assignment of the future monetary claim, it is considered to be transferred to the broker upon occurrence of the right for demand of money from the debtor, which is subject matter of factoring agreement.

If assignment of monetary claim is determined by certain event, it shall be enforced upon occurrence of such event. Additional execution of assignment of monetary claim is not needed in such cases.

#### **Article 732. Liability of the client towards the broker**

1. Unless otherwise stipulated by the agreement, the client shall be liable for invalidity of monetary claim, subject to assignment, towards the broker.

2. Monetary claim, subject to assignment, is considered to be valid, if the client has the right to transfer the monetary claim, and at the moment of transfer of such claim, the client is not aware of any circumstances, due to which the debtor may not satisfy such claim.

3. Client shall not be liable for failure of fulfillment or improper fulfillment of a claim by the debtor in case of its submission by the broker, unless otherwise stipulated by the agreement between the client and the broker.

#### **Article 733. Invalidity of prohibition of claim assignment**

1. Assignment of monetary claim to the broker shall be valid, even if there is agreement between the client and its debtor on its prohibition or limitation.

2. Provision of paragraph 1 of this article shall exempt the client from obligations or liability towards the debtor due to assignment of the claim in violation of existing agreement on its prohibition or limitation.

**Footnote. Article 733 as amended by Law of the Republic of Kazakhstan dated 27.02.2017 No.49-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).**

#### **Article 734. Further assignment of monetary claim**

Further assignment of monetary claim by the broker is not allowed, unless otherwise stipulated by the factoring agreement.

Provisions of this charter shall be applicable to assignment in cases when further assignment of monetary claim is allowed by the agreement.

#### **Article 735. Fulfillment of monetary claim by the debtor to the broker**

1. Debtor is obliged to proceed payment to the broker, subject to receipt of written notification from the client or the broker on assignment of the monetary claim to the relevant broker.

Such notification shall include specification of monetary claim payable and the broker to whom the payment shall be proceeded.

2. The broker shall provide confirmation to the debtor in relation to fact of the relevant assignment of monetary claim in reasonable terms by request of the debtor. If the broker fails to fulfill this obligation, the debtor is entitled to provide payment to the client by this claim as fulfillment of its obligation towards the latter.

3. Fulfillment of monetary claim by the debtor to the broke as per provisions of this article shall exempt the debtor from the relevant obligation towards the client.

#### **Article 736. Rights of the broker for the amounts received from the debtor**

1. If under the factoring agreement financing of the client is implemented by acquisition of monetary claim by the broker, the latter shall acquire the right for all amounts receivable from the debtor for fulfillment of the claim, and the client shall not bear any liability towards the broker, if amount received by the broker is less than the amount paid by the broker to the client.

2. If assignment of monetary claim to the broker is implemented as a method of security of client's obligation towards the broker, and unless otherwise stipulated by the factoring agreement, the broker is obliged to present a report to the client and transfer to the client an amount, exceeding amount of client's obligation, secured by assignment of the claim. If the money received by the fiscal agent from debtor occurs less than the liability of the client to the fiscal agent ensured by the assignment of the claim, the client shall be liable for the rest part of obligation.

3. The rules of this article shall be applied unless otherwise is stipulated by the factoring agreement.

**Footnote. Article 736 as amended by Law of the Republic of Kazakhstan No.49-VI dated 27.02.2017 (shall enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 737 Counter-claims of debtor**

In case of reference from the fiscal agent to the debtor demanding to proceed payment, the debtor may, under Article 370 of this Code to claim for offset of monetary claims based on the client agreement, that the debtor already had at the moment of receipt of the notification on assignment of claim to the fiscal agent.

The fiscal agent may refuse from the offsetting if the client fails to notify him about the liability to the debtor.

#### **Article 738. Repayment of the sum of money to the debtor received by the fiscal agent**

1. In case of the client's breach of the obligations under the agreement concluded with the debtor, the latter may not request the repayment from the fiscal agent paid by him and

transferred to the fiscal agent by the request, if the debtor is entitled to receive these amounts directly from the client.

2. The debtor who is entitled to receive directly from a client the amounts of money paid to the fiscal agent in the result of the assignment

of claim, nevertheless is entitled to request the return of these amounts of money from the fiscal agent, if the latter was proved whether not to have fulfilled his obligation upon the client to perform his factoring agreement or performed the factoring agreement being aware of the violation of the client from that obligation upon the debtor who the financial agreement belonged to connected to the claim.

#### **Article 738-1. Monetary claim upon the project of financing and securitization**

The peculiarities of factoring agreement upon the project of financing and securitization shall be established by the legislative act of the Republic of Kazakhstan on project of financing and securitization. Provisions of this chapter shall be applied to the transactions of project of financing and securitization unless otherwise provided by the legislative act of the Republic of Kazakhstan on project of financing and securitization.

**Footnote. Article 738-1 as amended by Law of the Republic of Kazakhstan dated January 12, 2012 No.539-IV (shall be enforced upon the expiry of 10 ten calendar days after the date of its first official publication).**

#### **Article 738-2. Monetary claim upon the project of financing of public-private partnership and concession**

Peculiarities of project of financing of public-private partnership and concession under the monetary claim shall be established by the legislation of the Republic of Kazakhstan in the field of public-private partnership and concessions.

Provision of this chapter shall be applied to the transactions of projects of financing of public-private partnership and concession unless otherwise is established by the legislation of the Republic of Kazakhstan in the field of public-private partnership and concessions.

**Footnote. Chapter 37 as amended by the article 738-2 in accordance with Law of the Republic of Kazakhstan dated July 4, 2018 No.171-VI (shall be enforced upon the expiry of ten calendar days after the date of its first publication).**

### **Chapter 38. Bank service**

#### **Paragraph 1. General provisions**

#### **Article 739. Agreement of bank service**

1. Under the agreement of bank service one part (bank) shall be obliged on instruction of other part (client) to provide bank services and a client shall be obliged to pay these services unless otherwise provided by the agreement.

2. Agreement of bank service is subdivided into:

1) agreement of bank account;

2) agreement of money transfers;

3) agreement of bank deposit;

4) other agreements, stipulated by the legislation or agreement between parties.

2-1. Bank accounts shall be opened on concluding the agreement with the bank the agreement of bank account and (or) the agreement of bank deposit.

3. Bank shall be entitled to use the money available on the bank account with the guaranty of the right of the client to dispose his money without hindrance.

**Footnote. Article 739 as amended by Law of the Republic of Kazakhstan dated July 5, 2012 No.30-V (shall be enforced upon the expiry of ten calendar days after its first official publication).**

#### **Article 740. Restriction on disposal of money at the bank**

1. Money of citizens and legal entities on bank accounts may be arrested only by courts on the basis of judicial acts and bailiffs on the basis of resolutions of bailiffs authorized by the prosecutor, in the manner and on the grounds established by the criminal procedural and civil procedural legislation of the Republic of Kazakhstan and the legislation of the Republic of Kazakhstan on enforcement proceedings and the status of bailiffs.

Whether temporal limitation on disposal of the property or limitation on performing transfers and other property transactions shall be established for the money at the bank accounts of the client by the person, executing prejudicial investigation on the basis and according to procedure stipulated by the legislation of the Republic of Kazakhstan.

Establishment on temporal limitation on the property disposal, limitations on transfers and other property transactions, seizure shall not be allowed:

1) for money at bank accounts and (or) electronic money at electronic money wallets intended for crediting benefits and social payments paid from the state budget and (or) the State Fund of social insurance;

2) for money at bank accounts intended for crediting housing payments, lump-sum pension payments from the unified accumulative pension fund in order to improve housing conditions and (or) pay for treatment;

2-1) for money at bank accounts in housing construction savings banks in the form of housing construction savings accumulated through the use of housing payments;

2-2) for money in bank accounts with second-tier banks in the form of savings for overhaul of the common property of condominium object, except for penalties based on court

decisions in cases of failure to fulfill obligations under contracts concluded for the purpose of overhauling the common property of condominium object;

3) for money deposited on a notary deposit;

4) for money at bank account under the agreement on educational savings deposit, concluded in accordance with the Law of the Republic of Kazakhstan "On the State Educational Savings System";

5) for the assets of the Social Health Insurance Fund at the bank accounts;

6) for money of banks, insurance (reinsurance) organizations, voluntary accumulative pension funds, branches of non-resident banks of the Republic of Kazakhstan, branches of non-resident insurance (reinsurance) organizations of the Republic of Kazakhstan, deprived of a license by the authorized state body and (or) in the process of compulsory liquidation (forced termination activity);

7) for money at bank accounts aimed at compensation for investment expenses in accordance with the legislation of the Republic of Kazakhstan in the sector of public-private partnership and concessions;

8) for money at the current account of a private enforcement agent intended for the storage of recovered amounts in favor of claimants;

9) for money at the bank account of a single operator in the field of public procurement, intended to be deposited by potential suppliers or suppliers of money as security measures in the framework of participation in public procurement in accordance with the Law of the Republic of Kazakhstan "On Public Procurement".

The provision of subparagraph 7) of paragraph three of this paragraph shall not apply to the restrictions imposed by the state revenue bodies, as well as courts on the basis of judicial acts and bailiffs on the basis of decisions of bailiffs authorized by the prosecutor, on which there are requirements relating to the first, second and third order in accordance with the order provided for in paragraph 2 of Article 742 of this Code.

The provision of subparagraph 8) of part three of this paragraph shall not apply to restrictions imposed by the authorized body in the field of provision execution of enforcement documents, its territorial bodies, to suspend debit transactions on a current account intended for storing recovered amounts in favor of collectors, a private enforcement agent whose license has been suspended or terminated or whose license has been revoked.

2. Terms of arrest on the money at the bank of legal entities and citizens shall not exceed the terms established for conduct of corresponding cases by criminal procedure and civil procedure legislation of the Republic of Kazakhstan.

3. Acts on client's money arrest at bank accounts may be appealed in the court according to the procedure established by the Laws of the Republic of Kazakhstan.

4. Suspension of debit operations on client's bank accounts shall be performed in the order and cases established by the legislative acts of the Republic of Kazakhstan.

5. Excluded by Law of the Republic of Kazakhstan dated February 27, 2017 No.49-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication ).

6. Acts on arrest, resolution and (or) order of authorized state bodies or officials on suspension of deposit operations on client's bank accounts presented to the client's bank account shall be performed in accordance with the date and time of receipt.

Withdrawal of money at client's bank account in case of the lack of money and (or) on limitations of money disposal at bank account shall be provided in accordance with paragraph 8 of this article and in accordance with the order established by paragraph 2 article 742 of this Code.

7. Excluded by Law of the Republic of Kazakhstan dated February 27, 2017 No 49-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication ).

8. Limitations on money disposal at the bank shall not be applied for the withdrawal of money under the requirements of one order and (or) upper order in accordance with the order provided by paragraph 2 article 742 of this Code.

Footnote. Article 740 as amended by Law of the Republic of Kazakhstan dated July 11, 2009 No.185 (shall be enforced since August 30, 2009); as amended by Law of the Republic of Kazakhstan dated February 10, 2011 No.406-IV (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated June 21, 2013 No.106-V ( shall be enforced upon expiry of ten calendar days after the date of its first official publication ); dated January 15, 2014 No.164-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated September 29, 2014 No.239-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 thirty calendar days after the date of its first official publication); dated February 27, 2017 No.49-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated June 30, 2017 No.80-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated December 12, 2017 No.114-VI (shall be enforced since January 1, 2018); dated July 4, 2018 No.171-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 217-VI dated 21.01.2019 (shall be enforced upon expiration after three months from the date of its first official publication); dated 26.12.2019 No. 284-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 26.06.2020 No. 349-VI (shall be enforced upon expiration of ten calendar days after the date of its first official publication); dated 02.01.2021 No. 399-VI (for the procedure of enactment see Art.2); dated 30.12.2020 No. 397-VI (shall be enforced upon expiration of six month after the date of its first official publication); dated 15.11.2021 No. 72 -VII (shall be enforced from 01.01.2022).

## **Article 741 Withdrawal of money without client's consent**

Withdrawal of money of citizens and legal entities at banks and other organizations that carry out certain types of banking operations shall be performed without their consent only at the basis of judicial act that has entered into legal force and in the cases provided by the Code of the Republic of Kazakhstan "On taxes and Other Obligatory Payments to the Budget" (the Tax Code), Customs Union and (or) the customs legislation of the Republic of Kazakhstan, Laws of the Republic of Kazakhstan "On Pension Provision in the Republic of Kazakhstan", "On Compulsory Social Insurance", "On Payments and Payment systems", "On Compulsory Social Medical Insurance".

It is not allowed to foreclose:

1) for money at bank accounts and (or) electronic money at electronic money wallets intended for crediting benefits and social payments paid from the state budget and (or) the State Fund of social insurance;

2) for money at bank accounts intended for crediting housing payments, lump-sum pension payments from the unified accumulative pension fund in order to improve housing conditions and (or) pay for treatment;

2-1) for money at bank accounts in housing construction savings banks in the form of housing construction savings accumulated through the use of housing payments;

2-2) for money in bank accounts with second-tier banks in the form of savings for overhaul of common property of condominium object, except for penalties based on court decisions in cases of failure to fulfill obligations under contracts concluded for the purpose of overhauling the common property of condominium object;

3) for money deposited on a notary deposit;

4) for money at bank account under the agreement on educational savings deposit, concluded in accordance with the Law of the Republic of Kazakhstan "On the State Educational Savings System";

5) for the assets of the Social Health Insurance Fund at the bank accounts;

6) for money at bank accounts aimed at compensation for investment expenses in accordance with the legislation of the Republic of Kazakhstan in the sector of public-private partnership and concessions;

7) for money at the current account of a private enforcement agent intended for the storage of recovered amounts in favor of claimants;

8) for money at the bank account of a single operator in the field of public procurement, intended to be deposited by potential suppliers or suppliers of money as security measures in the framework of participation in public procurement in accordance with the Law of the Republic of Kazakhstan "On Public Procurement".



Provision of subparagraph 6) the second part of this article shall not be applied to the withdrawal of money under the requirements that belong to the first, second and third order in accordance with the order established by the paragraph 2 article 742 of this Code.

Footnote. Article 741 as amended by Law of the Republic of Kazakhstan dated June 30, 2017 No.80-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication); as amended by Laws of the Republic of Kazakhstan dated December 12, 2017 No.114-VI (shall be enforced since January 1, 2018) dated July 4, 2018 No.171-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication ); dated 26.12.2019 No. 284-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

#### **Article 742. Order of client's money withdrawal**

1. If the amount of client's money at bank is sufficient to satisfy all the requirements presented to the client the withdrawal of money shall be performed in the order of client's or other persons orders (calendar order), unless otherwise has been stipulated by the legislative acts.

2. If the amount of client's money at bank is not sufficient to satisfy another requirement presented to the client, the bank shall accumulate the money that are in favor of the client the amount of which is sufficient to satisfy this requirement except for the cases stipulated by the legislative acts of the Republic of Kazakhstan. Submitting several requirements to the client the bank shall withdraw client's money in the following order:

1) Money withdrawal on executive documents providing the satisfaction of the requirements on indemnification of damage caused to life and health and the requirements on collecting alimony shall be performed in the first place;

Subparagraph 2) provides an amend No.342-V in Law of the Republic of Kazakhstan dated August 2, 2015 (shall be enforced from January 1, 2023)

2) Money withdrawal on executive documents providing withdrawal of money for calculation of severance pay and payments of labour for persons who execute their work under the labour agreement, payment of remuneration under the publisher's agreement, client's obligation on the transfer of mandatory pension contributions, shall be performed in the second place; mandatory professional pension contributions to the unified accumulative pension fund and social contributions to the State Social Insurance Fund and (or) contributions to compulsory social medical care insurance to the Social Healthcare Insurance Fund shall be performed in the second place;

3) withdrawal of money of client's obligation to the budget shall be performed in the third place;

4) withdrawal of money on executive documents providing the satisfaction of other monetary requirements shall be performed in the fourth place;

5) withdrawal of money to satisfy other requirements presented to the client in the calendar order shall be performed in the fifth place;

Withdrawal of money from bank under the requirements that belong to one order shall be performed in periodical order of the arrival of corresponding documents.

3. Upon liquidation of a legal entity being a client the satisfaction of creditor's requirements shall be performed in the order provided by article 51 of this Code.

**Footnote. Article 742 as amended by Laws of the Republic of Kazakhstan No.42 dated March 29, 2000; No.394 dated March 13, 2003; No.482 dated July 9, 2003; No.542 dated April 8, 2004 (shall be enforced from January 1, 2005); No.253 dated May 15, 2007; No.106-V dated June 21, 2013 (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No.406-V dated November 16, 2015 (shall be enforced from July 1, 2017).**

#### **Article 743. Banking services to the organizations performing certain types of banking operations**

Organizations that perform certain types of banking services are entitled to provide certain banking services.

Certain types of banking services provided by these organizations shall be performed in the order established by this Code and legislative acts of the Republic of Kazakhstan.

**Footnote. Article 743 as amended by Law of the Republic of Kazakhstan No.107 dated December 23, 2005 (the order of enforcement see in Art.2 of Law No.107).**

#### **Article 744. Payment of bank services**

The client shall pay for the bank services provided under a banking service agreement on the conditions and in the order established by the agreement.

#### **Article 745. Bank secrecy**

Bank shall guarantee non-disclosure of bank secrecy.

List of data constituting banking secrecy and the reasons for its issuance shall be determined by the legislative acts that regulate banking activities.

#### **Article 746. Responsibility for violation from clients banking service terms**

Banks and organizations engaged in certain types of banking operations shall be liable for violations related to clients banking services within the limits established by the legislative acts of the Republic of Kazakhstan governing banking activities and banking service agreements.

**Footnote. Article 746 as amended by Law of the Republic of Kazakhstan dated March 29, 2000. No.42.**

#### **Paragraph 2. Bank account**

## **Article 747. Agreement of bank account**

1. Under agreement of bank account one party (a bank, an organization engaged in certain types of banking operations) is obliged to accept money received in favor of the other party (client), execute client's orders for transferring (issuing) a client or a third party to corresponding amounts of money and providing other services, stipulated by the agreement of bank account.

Opening of a current or savings account in the name of a third party with the condition of depositing (blocking) money held in this current or savings account without the right of the owner to carry out current or savings account of the expense operations before the occurrence or fulfillment of conditions specified by the bank accounts under agreement of bank account is allowed.

When a bank account is opened, a client or a person specified by him for the purpose of accounting for client money in a bank (an organization engaged in certain types of banking operations) shall be assigned an individual client identification code on terms agreed by the parties. Order of assignment, cancellation of an individual client identification code, maintenance by a bank (organization that carries out certain types of banking operations) of accounting for client money is determined by the banking legislation of the Republic of Kazakhstan.

2. Legal entities and citizens independently shall choose banks for servicing independently and shall be entitled to conclude agreements of bank account with one or several banks.

3. Agreement of bank account is of unlimited term unless otherwise is provided by legislative acts or by agreement of the parties.

**Footnote. Article 747 as amended by Law of the Republic of Kazakhstan No.486 dated November 29, 1999; No.12-VI dated July 26, 2016 (shall be enforced upon expiry of thirty calendar days after its first official publication); No.166-VI dated July 2, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Article 748. Form of agreement of bank account**

1. Agreement of bank account shall be concluded in a written form.

2. Failure to conclude agreement of bank account in written form makes it null and void.

**Footnote. Article 748 as amended by Law of the Republic of Kazakhstan No.49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Article 749. Order of client's money**

1. A bank (an organization engaged in certain types of banking operations) performs the withdrawal of client money held in a bank (an organization engaged in certain types of banking operations) on the basis of a client's order, unless otherwise provided by legislative acts or agreement of bank account .

A bank is not entitled to determine and control the direction of use of money by the client and to establish other restrictions that are not stipulated by the legislation of his right to dispose the money at his own discretion, unless otherwise is provided by the legislation or the agreement of bank account .

2. If money was deposited by a citizen, then either the citizen himself or the person to whom he entrusted this right shall enjoy the right to dispose of money held in a bank (an organization engaged in certain types of banking operations).

If money was deposited by a legal entity, then the chief of this legal entity and (or) other persons authorized by him shall use the right to dispose money held in a bank (an organization engaged in certain types of banking operations).

3. The rights of persons performing on behalf of the client the order of money held in a bank (organization carrying out certain types of banking operations) are confirmed by the client by submitting documents to the bank (organization carrying out certain types of banking operations) provided for by Law and the contract.

4. Agreement of bank account shall establish the procedure for disposing of money held in a bank (an organization engaged in certain types of banking operations). Requirements for such an order are established by legislative acts regulating banking activities.

**Footnote. Article 749 as amended by Law of the Republic of Kazakhstan dated July 2, 2018 No.166-VI (shall be enforced upon the expiry of ten calendar days after its official publication).**

**Article 750. Operations performed by a bank (an organization engaged in certain types of banking operations) under agreement of bank account**

**Footnote. Heading of article 750 is in the wording of Law of the Republic of Kazakhstan dated July 2, 2018 No.166-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

1. In accordance with the agreement of bank account a bank (organization engaged in certain types of banking operations) shall do the following:

- 1) ensure the availability of money upon client's requirements;
- 2) accept money received in favor of the client;
- 3) carry out client's orders for the money transfer in favor of third parties;
- 4) execute orders of third parties on withdrawal of client's money, if it is provided by legislative acts of the Republic of Kazakhstan and (or) agreement of bank account;
- 5) receive from the client and give him cash in the order prescribed by agreement of bank account;

6) provide at the request of the client information on the amount of the client's money at the bank (the organization carrying out certain types of banking operations) and the operations performed in the order provided by the agreement;

7) perform other client banking services provided for by the agreement, legislation, and the customs of business turnover applied in banking practice.

2. A bank (organization carrying out certain types of banking operations) shall accept money received in favor of the client, as well as withdraw or issue the client's money with the demonstration of such operations using his individual identification code within one day following the day of the bank receipt (an organization that carries out certain types of banking operations) of the relevant directive, unless other periods are provided for by the legislative acts and the normative legal acts issued in accordance with them National Bank of the Republic of Kazakhstan.

**Footnote. Article 750 as amended by Law of the Republic of Kazakhstan dated July 11, 2009 No.185 (shall be enforced from August 30, 2009); dated July 2, 2018 No.166-VI (shall be enforced upon the expiry of ten calendar days after its first official publication)**

#### **Article 751. Remuneration for money use**

The bank shall pay remuneration for the use of money held by the bank in the amount and according to the procedure established by the agreement, taking into account the provisions of this Article.

No remuneration shall be paid for the use of money placed on the current bank account.

For non-cash payments and money transfers, the bank may pay income, determined by the bank account agreement, from the amount of non-cash payments and money transfers.

**Footnote. Article 751 as amended by Law of the Republic of Kazakhstan No.486 dated November 29, 1999; No. 168-VI dated 02.07.2018 (shall be enforced dated 01.01.2019).**

#### **Article 752. Termination of agreement of bank account**

1. Agreement of bank account shall be terminated at the request of the client at any time unless otherwise is provided by the legislation or the agreement.

2. Termination of agreement of bank account shall be the grounds for cancellation of an individual client's identification code.

3. Money left in the bank (the organization that carries out certain types of banking operations) is given out to the client or on his order is transferred (withdrawn) in favor of third parties.

**Footnote. Article 752 as amended by Law of the Republic of Kazakhstan dated 02.07.2018 No.166-VI (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 753. Bank accounts at banks**

Rules of this chapter shall be applied to bank accounts at banks, unless otherwise is provided by legislative acts or regulatory legal acts of the National Bank of the Republic of Kazakhstan adopted in accordance with them.

Paragraph 3. Money transfer

#### **Article 754. Agreement of money transfer**

1. One party (bank) shall undertake on behalf of the other party (client) to transfer money to a third party without assigning an individual identification code to the client under agreement of money transfer.

2. Procedure for money transfer by a bank without assigning an individual identification code to a client is established by legislative acts regulating banking activities.

#### **Article 755. Conclusion of agreement of money transfer**

Agreement of money transfer without opening a bank account is considered concluded, if the bank accepts for execution the client's order at the time of the client's request to provide such banking services to him, unless otherwise is provided by legislative acts regulating banking activities

Paragraph 4. Bank deposit

#### **Article 756. Agreement of bank deposit**

One party (bank) shall undertake to accept money (deposit) from the other party (depositor), pay remuneration on them in the amount and manner stipulated by the agreement of bank deposit and return the deposit on the conditions and procedure provided for this type of deposit by legislative acts and agreement under agreement of bank deposit.

For the purposes of accounting client's money banks assign an individual identification code for each type of deposits. Procedure for assigning, canceling of an individual identification code and maintaining a client's bank account shall be determined by the banking legislation of the Republic of Kazakhstan.

Peculiarities of bank deposits may be established by legislative acts of the Republic of Kazakhstan regulating banking activities.

**Footnote. Article 756 as amended by Laws of the Republic of Kazakhstan No.482 dated July 9, 2003; No.133-IV dated February 12, 2009 (the order of enforcement see in Art.2)**

#### **Article 757. Types of bank deposits**

1. Depending on deposits return conditions deposits are divided into the following types:

- 1) demand deposit;
- 2) time deposit;
- 2-1) savings deposit;

3) conditional deposit.

2. Demand deposit shall be refundable in full or in part upon the first demand of the depositor.

3. Time deposit shall be deposited for a certain period of time.

In cases when a time deposit is requested by the depositor before the expiration of the established period the remuneration on the deposit shall be paid in the amount established for the demand deposit, unless otherwise is provided by the agreement of bank deposit.

4. Savings deposit shall be deposited for a certain period of time.

In cases when a savings deposit is requested by the depositor before the expiration of the established period the remuneration on the deposit shall be paid in the amount established for the demand deposit.

5. Conditional deposit shall be deposited before the occurrence of circumstances specified in the agreement of bank deposit.

In cases when a conditional deposit is requested before the occurrence of circumstances of bank deposit the remuneration on the deposit shall be paid in the amount established for the demand deposit, unless otherwise is provided by the agreement of bank deposit.

**Footnote. Article 757 as amended by Laws of the Republic of Kazakhstan dated 02.07.2018 No.168-VI (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 758. Form of agreement of bank deposit**

1. Agreement of bank deposit shall be concluded in writing form that meets the requirements established by legislative acts, normative legal acts of the National Bank of the Republic of Kazakhstan and the customs of business turnover applied in banking practice.

2. Upon request of the depositor, a document certifying the deposit may be issued either in his name or in the name of a certain third party.

3. Failure to conclude agreement of bank deposit in written form makes it null and void.

**Footnote. Article 758 as amended by Law of the Republic of Kazakhstan No.225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication); No.49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 759. Validity period of agreement of bank deposit**

1. Agreement of bank deposit shall be considered concluded from the date of depositing of the deposit amount to the bank.

2. Agreement of bank demand deposit is considered of unlimited term.

2-1. The term of the deposit provided for by the bank deposit agreement may be changed if the bank is subject to the measures on regulation of the bank classified as insolvent in

accordance with the Law of the Republic of Kazakhstan "On Banks and Banking Activities in the Republic of Kazakhstan".

3. In the case when the depositor does not claim the amount of the time and (or) savings deposits after the expiration of their terms, as well as the amount of the conditional deposit after the occurrence of the circumstances with which the bank deposit agreement connects the return of the deposit, the agreement of bank deposit shall be considered extended on demand deposit terms, unless otherwise provided by the agreement.

**Footnote. Article 759 as amended by Laws of the Republic of Kazakhstan dated 02.07.2018 No.168-VI (See Article 2 for the procedure of implementation).**

#### **Article 760. Remuneration on the agreement of bank deposit**

1. Bank shall pay the debtor a remuneration in the amount of the deposit specified by the agreement of bank deposit by taking into account the provisions of this article.

1-1. The amount of remuneration on a demand deposit shall be established by the agreement of bank deposit but shall not exceed 0.1 percent per annum.

1-2. Rate of remuneration on time and savings deposits can be fixed or floating.

Fixed remuneration rate is the remuneration rate, the amount of which cannot be reduced during the term of the deposit stipulated by the agreement of bank deposit.

Floating remuneration rate is the remuneration rate, the amount of which varies in accordance with the conditions stipulated in the agreement bank deposit.

The procedure for calculating, the terms of the floating rate of interest under the bank deposit agreement shall be determined by the regulatory legal act of the authorized authority for regulation, control and supervision of the financial market and financial organizations.

2. The Bank shall not be entitled to change the amount of interest on deposits unilaterally, except for cases of increase of interest or extension of the term of the deposit stipulated by the bank deposit agreement, taking into account the peculiarities established by clause 3 of this Article.

3. The amount of remuneration under the bank deposit agreement may be changed in case of application to the bank of measures on regulation of the bank, referred to the category of insolvent banks, in accordance with the Law of the Republic of Kazakhstan "On banks and banking activities in the Republic of Kazakhstan"

**Footnote. Article 760 as amended by Law of the Republic of Kazakhstan No.486 dated November 29, 1999; No.406-IV dated February 10, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication); No.12-VI dated July 26, 2016 (shall be enforced upon expiry of thirty calendar days after its first official publication); No.168-VI dated July 2, 2018 (for the procedure of implementation, see Article 2); dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).**

#### **Article 761. Procedure for remuneration payment under the agreement of bank deposit**



1. Remuneration under the agreement of bank deposit is paid by the bank in the manner and amount established by the agreement of bank deposit.

2. Unless otherwise provided by the agreement of bank deposit remuneration on bank deposits specified in clause 3 of this article shall be paid to the depositor upon his request upon the expiry of each quarter separately from the deposit amount, and the amount unclaimed during this period increases the amount of the deposit for which remuneration is paid.

When the deposit is returned to the depositor, all remuneration due to him at this time shall be paid.

3. Depositor is entitled to receive the remuneration due to him separately from the deposit amount for demand deposits.

Depositor is entitled to receive the remuneration due to him on the deposit separately from the deposit amount before its expiration for time deposits. Unless otherwise provided by the agreement of bank deposit the amount of remuneration on time deposits shall be recalculated in relation to the amount that the bank uses for demand deposits. Upon expiry of the deposit period depositor is entitled to receive the remuneration due to him in full, regardless of whether he requests deposit or not (paragraph 3 , Article 759 of this Code).

Depositor's receive of the remuneration due to him separately from the amount of the deposit is made in the manner prescribed by the agreement of bank deposit for conditional deposits.

4. Remuneration shall be paid in terms and in the form provided for the return of the deposit (Article 765 of this Code).

5. All remuneration due to him at this time shall be paid with the full return of the deposit to the depositor.

**Footnote. Article 761 as amended by Laws of the Republic of Kazakhstan dated 02.07.2018 No.168-VI (shall be enforced upon the expiry of ten calendar days after its first official publication);**

### **Article 762. Making deposits**

1. Unless otherwise provided by the agreement of bank deposit depositors shall make deposits both in cash and by wire transfer.

2. Money can be paid by the depositor in individual deposits in any amounts and at any frequency with a demand deposit. In this case, the remuneration for newly received amounts shall be calculated in relation to the amount of remuneration that was applied by the bank on the day of receipt of money.

In case of time, savings deposits, and conditional deposits, the depositor in the form of a one-time deposit shall deposit the money, unless otherwise provided by the agreement of bank deposit.

**Footnote. Article 762 as amended by Laws of the Republic of Kazakhstan dated 02.07.2018 No.168-VI (shall be enforced upon expiry of ten calendar days after its first official publication);**

#### **Article 763. Deposit of money by third parties**

Money by the bank in the name of the depositor from third parties with indicating the necessary data on his individual identification code shall be deposited into deposit.

#### **Article 764. Deposits in favor of third parties**

1. Deposit can be deposited to the bank in the name of a certain third party.

Essential condition of the relevant agreement of bank deposit is specifying the name of a citizen (Article 15 of this Code) or the name of a legal entity (Article 38 of this Code), in favor of who the deposit is made.

Agreement of bank deposit in favor of a citizen who has died at the time of the conclusion of the agreement, or a legal entity that does not exist at that time is null and void.

2. In the case of a written refusal by a third party from the rights of the depositor, the person who has concluded the agreement of bank deposit may use the rights of the depositor in relation to the money contributed by him.

3. When making a conditional deposit in favor of a third party, he is entitled to dispose of it only if the conditions stipulated in the agreement of bank deposit are observed. Before the occurrence of these conditions a third party may dispose of the deposit only with the written permission of the person who made the deposit.

Condition on the deposit shall be fixed in the agreement of bank deposit in writing and shall not contradict the legislative acts and have any ambiguities that impede the issuance of the deposit.

Conditional deposit receipt requires a third party to submit documents to the bank with the confirmation of the fulfillment of the established condition.

The person who deposited the conditional deposit in favor of the third person shall be entitled to: change the condition established by it in case when a third party has not submitted a document with the confirmation of the fulfillment of this condition; dispose of the deposit in case of non-fulfillment by the third person of the condition specified when making the deposit, or his death before the condition provided for by the agreement of bank deposit is fulfilled.

4. Rules on agreement in favor of a third party (Article 391 of this Code) shall be applied to the agreement of bank deposit in favor of a third party, if this does not contradict the rules of this article.

**Footnote. Article 764 as amended by Law of the Republic of Kazakhstan No.49-VI dated 27.02.2017 (shall enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 765. Return of bank deposits**

1. Bank shall be obliged to issue a deposit or its part upon the first request of a depositor:  
1) on demand deposit-upon the requests of a depositor;  
2) on time and savings deposits-upon the due date provided by the agreement of bank deposit;

3) on conditional deposits - if there are circumstances that the agreement of bank deposits relates the return of deposit.

2. Depositor is entitled for a longterm part and (or) full return of time deposit.

Depositor is entitled for a longterm full return of savings deposit.

2-1. The bank shall be obliged to issue a time or conditional deposit or its part no later than seven calendar days from the date of receipt of the depositor's request.

Bank shall be obliged to issue a savings deposit not earlier than thirty calendar days from the date of receiving of the depositor's request.

3. For conditional deposits, the depositor shall has the right to return the deposit before the occurrence of circumstances with which the bank deposit agreement connects the return of the deposit. In this case, the bank shall be obliged to issue a deposit or its part within the terms provided by part one of Paragraph 2-1 of this Article.

4. Provision of the agreement of bank deposit on the refusal of the depositor from the right to early receipt of the time deposit, as well as the conditional deposit before the stipulated conditions is null and void.

5. If the deposit is made in a foreign currency it shall be returned in the same currency, unless otherwise provided by legislative acts, agreement of bank deposit or additional agreement of the parties.

6. In the case when the bank fails to meet the depositor's requirement to return the deposit or part of it within the terms provided by Paragraphs 2 and 3 of this Article, payment of remuneration shall continue under the conditions provided by the agreement of bank deposit.

6-1. Rules of this article shall not be applied to deposits that are the subject of a pledge, as well as deposits with the return limited by the requirements of the Law of the Republic of Kazakhstan "On Housing Relations".

7. Issuance of a bank deposit may be suspended for reasons and in accordance with the procedure:

1) in accordance with the Law of the Republic of Kazakhstan "On Counteraction to Legalization (Laundering) of Proceeds of Crime and Financing of Terrorism";

2) as provided by the Law of the Republic of Kazakhstan "On Banks and Banking Activities in the Republic of Kazakhstan", when applying measures to regulate the bank, referred to the category of insolvent banks, or depriving the bank of a license.

**Footnote. Article 765 as amended by Law of the Republic of Kazakhstan No.42 dated March 29, 2000; No.192-IV dated August 28, 2009 (shall be enforced from 08.03.2010); No .421-IV dated March 25, 2011 (shall be enforced upon expiry of ten calendar days after the**

date of its first official publication);No.19-V dated June 21, 2012 (shall be enforced upon expiry of ten calendar days after the date of its first official publication);No.206-V dated June 10, 2014 (shall be enforced upon expiry of ten calendar days after the date of its first official publication);No.49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after the date of its first official publication);No.114-VI dated December 12, 2017 (shall be enforced from 01.01.2018); No.168-VI dated July 2, 2018 (for the procedure of implementation, see Article 2); dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).

#### **Article 766. Security of bank deposit return**

Means and methods that the bank is obliged to use to secure the return of deposits received by it, shall be determined by the laws of the Republic of Kazakhstan and the agreement of bank deposit.

Footnote. Article 766 as amended by the Law of the Republic of Kazakhstan dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).

#### **Article 767. Payment of bank services for bank deposit operations**

Depositor shall pay the services of the bank to perform operations on the bank deposit in the manner prescribed by the agreement.

Chapter 39. Custody

Paragraph 1. General provisions on custody

#### **Article 768. Contract of bailment**

1. Under the contract of bailment, one party (bailee) shall undertake to keep the thing transferred to it by the other party (bailor) and to return this thing in safety.

2. Contract of bailment shall be deemed to be concluded from the moment of the transfer of the thing for storage.

3. The operation of this chapter does not apply to the storage of immovable property.

#### **Article 769. Bailment contract of thing**

1. Bailee who carries out storage as an entrepreneurial activity may under the contract undertake to keep bailor's things and keep the bailor's belongings in accordance with the provisions of this chapter.

2. Bailee who under the contract undertook the obligation to accept the thing for storage shall not have the right to demand this thing be transferred to him for storage. However, the bailor who has not transferred the thing for storage within the period provided for by the contract shall be liable to the depositary for damages caused in connection with the failed storage, unless otherwise provided by legislative acts or the contract.

3. Bailor shall be released from responsibility for the non-transfer of the thing to storage if he declares his refusal of the bailee's services within a reasonable time.

4. Unless otherwise provided by the contract, the bailee shall be released from the obligation to accept the thing for storage in cases when the thing is not transferred to storage within the contract period, and when this period is not specified upon the expiry of thirty days from the date of the contract conclusion.

#### **Article 770. Obligation to store the thing**

Bailee who carries out storage due to his entrepreneurial activity shall not have the right to refuse to store a thing if there are technical possibilities, unless otherwise established by legislative acts. In these cases bailment contracts shall be considered public (article 387 of this Code).

#### **Article 771. Depersonalized bailment**

1. When storing things with depersonalization, things accepted for storage may be mixed with things of the same kind and the quality of other bailors. An equal or due to the parties quantity of things of the same kind and quality shall be returned to the bailor.

2. When storing things with depersonalization, things shall be separated from things of the same kind and quality, if this is established by legislative acts or by agreement of the parties.

#### **Article 772. Form of bailment contract**

1. Bailment contract shall be concluded in a writing form, with the exception of storing things for short-term storage in lockers and cloakrooms for stations, airports, institutions, enterprises, theaters, museums, stadiums, canteens, etc. with the issuance of a keeper of numbers, tokens and other legitimate marks.

2. The written form of the contract is considered to be complied with, if the acceptance of things for storage is certified by the bailee by issuing a deposit receipt, receipt, certificate, or other document signed by the bailee to the bailor.

3. Bailment contract in the form of a domestic service can be made verbally.

4. In disputable case of identity of the thing accepted for storage and the thing returned by the bailee, testimony shall be allowed.

5. Storing things under emergency circumstances (fire, flood, etc.) in the absence of a written form of the contract can be proved by testimony, regardless of the value of the thing deposited.

#### **Article 773. Period of bailment**

1. If the thing is deposited on demand or without a period, the bailee upon the expiry of the bailment period may require the bailor to take the thing back, but shall provide the bailor a reasonable time sufficient to accept the thing.

2. Bailor is entitled at any time to demand a thing from the bailee, even if a different period of bailment has been provided for under the contract. However, in this case the bailor is obliged to reimburse the bailee the losses caused by the early termination of the obligation, unless otherwise provided by the contract.

#### **Article 774. Remuneration and reimbursement of expenses to the bailee**

1. The amount of remuneration to the bailee is established by the agreement of the parties under the bailment contract. In cases specified by legislative acts, the amount of remuneration may be determined by taxes, rates and tariffs.

2. Agreement of the parties or legislative acts may stipulate gratuitousness of storage. In case of gratuitousness of storage, the bailor is obliged to reimburse the bailee all the necessary , actually incurred expenses for the storage of things.

3. Unless otherwise provided by legislative acts or by agreement of the parties, remuneration for storage shall be paid to the bailee at the end of storage, and if payment is provided for periods, upon the expiry of each period. If storage is terminated before the expiry of the bailment period specified in the contract, the bailee shall be paid a proportionate remuneration part.

4. If, upon the expiry of the period stipulated by the contract, the thing in storage is not taken back by the bailor, he shall be obliged to pay the bailee a fee for the further storage of the thing in the same amount.

5. Unless otherwise provided by the contract, the expenses of storage shall be included in the amount of remuneration. Extraordinary expenses are supposed not to be included in the amount of the remuneration or in the expenses stipulated in the contract.

#### **Article 775. Bailee's obligations to secure thing**

1. Bailee is obliged to undertake all measures stipulated by the contract as well as other necessary measures to secure the deposited thing.

2. If gratuitousness of storage is carried out, bailee shall be obliged to take care of the thing for storage as about his thing.

3. Thing shall be returned in the state it was accepted for storage, taking into account its natural deterioration or natural loss

4. Bailee does not have the right to use the thing, unless it is stipulated by the contract, as well as if the use of the thing is necessary to ensure its safety.

5. Bailee is obliged to transfer the fruits and income received during its storage, unless otherwise provided by the contract, together with the return of the thing.

### **Article 776. Change of bailment conditions**

1. If it is necessary to change the bailment conditions of the thing provided for in the bailment contract, the bailee is obliged to immediately notify the bailor about it and wait for his reply.

2. In the case of a danger of loss or damage to the thing, the bailee is obliged to change the method and place of storage provided for by the contract, without waiting for the bailor's reply (paragraph 1 of this article)

3. If the thing has been damaged during storage or other circumstances have arisen that do not allow to ensure its safety and waiting for taking actions from the bailor are impossible, the bailee may sell the item or part of it with reimbursement of its storage and distribution costs.

### **Article 777. Transfer of the thing storage to a third person**

1. Unless otherwise provided by legislative acts or the contract, the bailee shall not have the right to transfer the thing to a third party for storage without the bailor's consent unless this is necessary in the interests of the bailor and the bailee is deprived of the opportunity to obtain his consent. Bailee shall immediately notify the bailor of the transfer of the thing to a third party.

2. Bailee shall be responsible for the actions of the third person who he has transferred the thing.

### **Article 778. Responsibility of bailee for the failure to preserve the thing**

Bailee shall be responsible for the loss, shortage or damage to the thing for storage. Bailee shall be exempt from responsibility if he proves that the loss, shortage or damage to the thing was not his fault.

### **Article 779. Responsibility of bailee-entrepreneur**

1. Person who stores the thing due to his entrepreneurial activity shall be exempt from responsibility for the failure to preserve the thing only in cases when the loss, shortage or damage of the thing are caused whether by force majeure or the properties of the thing itself, or the bailor's intention or gross negligence.

2. If upon the expiry of the bailment period stipulated in the contract, or the period specified by the bailee in accordance with the procedure established in Article 773 of this Code, the thing shall not be taken back by the bailor, the bailee is responsible for the loss, shortage or damage of this thing only due to his intent or gross negligence.

### **Article 780. Amounts of bailee's liability**

1. Losses caused to the bailor by loss, shortage or the bailee in accordance with Article 350 of this Code shall reimburse damage to the thing, unless otherwise provided by legislative acts or the contract.

2. If the thing was assessed on depositing and this assessment is specified in the contract or other written document issued by the bailee, the bailee's liability shall be determined based on the amount of the assessment.

3. In the case of gratuitous storage, losses caused to the bailor by loss, shortage or damage to the thing shall be reimbursed for:

1) loss or shortage of things - in the amount of the value of the lost or missing thing;

2) damage of a thing - in the amount equal to the amount by which its value has been decreased.

4. If the quality of the thing for which the bailee is responsible has changed so much that it cannot be used for its original purpose as a result of damage, the bailor may refuse it and to demand from the bailee to reimburse the cost of this thing, as well as compensation for other losses unless otherwise is stipulated by the legislative acts or contract.

#### **Article 781. Consequences of time breach of things receipt**

1. Upon the expiry of the period specified in Article 773 of this Code bailor shall return the thing deposited.

2. If a bailor evades from receiving his thing, a bailee shall be entitled to demand after a warning no less than a month the sale of the thing in the manner prescribed by the Civil Procedure Code of the Republic of Kazakhstan, unless otherwise provided by legislative acts or a contract.

3. The money received from the sale of the thing shall be transferred to the bailor reduced by the sum to the bailee.

#### **Article 782. Reimbursement of damages to the bailee**

Bailor shall reimburse the bailee the damages caused by the properties of the thing, if the bailee did not know and should not have known about these properties while accepting the thing for storage.

#### **Article 783. General provisions on individual types of storage**

General provisions on storage shall be applied to its individual types, unless otherwise is provided by the rules on individual types of storage provided for in Articles 784-802 of this Code and (or) other legislative acts.

#### **Paragraph 2. Certain storage types**

#### **Article 784. Storage at pawnshop**



1. Agreement of pawnshop storage of things shall be made by issuing personal safe receipt by the pawnshop.

2. Thing deposited at a pawnshop shall be assessed by agreement of the parties in accordance with the prices for a thing of this kind and quality, usually established in the trade at the time and place of its acceptance for storage.

3. The pawnshop shall be obliged to insure in favor of the bailor the thing accepted for storage in the full amount of its assessment made in accordance with paragraph 2 of this article.

#### **Article 785. Unclaimed pawnshop thing**

1. If a bailor evades from returning receipt of a thing, the pawnshop shall keep it for three months. Upon the expiry of the period an unclaimed thing may be sold by a pawnshop in the manner established by paragraph 2 of Article 781 of this Code.

2. Storage charge and other payments due to the pawnshop are compensated from the amount received from the sale of the thing. The rest of the amount is returned by the pawnshop to the holder of the safe receipt upon its presentation.

#### **Article 786. Storage of valuable things at bank**

1. Bank may accept securities, precious metals, stones and other valuables, as well as documents for storage.

2. Agreement of storing valuables in a bank is concluded by issuing to the bailor a personal document by the bank, the presentation of which is the basis for the bank to issue the valuables to the bailor or his representative.

3. Agreement of storing valuables with the use of an individual bank safe (safe cell, separate storage) can be concluded by the bank taking actions to accept valuables for storage and issue a key to the bailor from the safe, card identifying the bailor, another sign or document certifying the right of the bearer access to safe and valuables.

4. Unless otherwise provided by the agreement, the bailor may take valuables from the safe at any time, return them back, and work with stored documents. In this case bank may the receipt and return of values by the bailor.

5. Upon receipt by the bailor, including the temporary part of valuables from the safe, the bank shall be responsible for the safety of the remaining part of the valuables.

6. The rules established by this article for storing valuables in a bank safe shall not be apply to cases when a bank provides its safe (safe cell, separate storage) to another person for use under conditions of property rental.

#### **Article 787. Storage in luggage rooms of transport organizations**

1. Luggage storage rooms under the authority of transport organizations are obliged to accept for storage things of passengers and other citizens, regardless of whether they have travel documents. Agreement of storage in luggage storage rooms of transport organizations shall be recognized public (Article 387 of this Code).

2. Bailor is issued a receipt or a number token to confirm the receipt of things for storage in the luggage storage rooms (except for automatic ones). In the case a receipt or a token are lost, things handed over to the luggage storage rooms shall be returned to the bailor upon the presentation of evidence that these things belong to him.

3. The amount of losses incurred by the bailor due to loss, shortage or damage to the thing deposited in the luggage storage room is paid to the bailor within one day's period if the property was assessed for deposit of the thing or the parties agreed on the amount of damages to be reimbursed.

4. Things can be handed over to the luggage storage rooms for a period within the limits established by special rules or by agreement of the parties. Luggage storage rooms shall store unclaimed things within the specified time during three months. Upon the expiry of this period, unclaimed things may be sold, and the proceeds from the sale of the amount distributed in accordance with Article 781 of this Code.

#### **Article 788. Storage in cloakrooms**

1. Storage in the cloakrooms of organizations is supposed to be free of charge if the remuneration for storage is not agreed upon when the thing is stored.

2. Bailee issues to the bailor a numbered token or other mark confirming the acceptance of the thing for storage to confirm the acceptance of the thing for storage in the cloakroom.

3. The thing handed over to the cloakroom is returned upon the presentation of a token. Bailee is not obliged to check the authority of the bearer of the token to receive the thing. However, bailee may delay the return of the thing if he has doubts about the belonging of the token to his bearer.

4. Bailee may issue a thing from the cloakroom even when the bailor has lost the token, but the bailee shall have no doubt, whether the thing was handed over to the cloakroom or belonged to the bailor and this fact shall be proven by the bailor.

#### **Article 789. Storage at hotel**

1. Hotel is responsible as a bailee without any special agreement about the loss or damage of things, except for money, other currency valuables and securities stored at the hotel by a hotel guest unless the loss or damage occurred due to force majeure, the properties of the thing either through the fault of the resident himself, his attendants or his visitors.

2. Hotel is responsible for the loss of money, other currency valuables and securities only if they have been accepted for storage.

3. Guest of the hotel shall immediately inform the hotel administration if he discovers the loss or damage to his belongings. Otherwise, the hotel shall be relieved of responsibility for failure to preserve the things.

4. Hotel shall not be exempt from responsibility for the failure to preserve belonging of its guests even if the hotel announces that it does not assume this responsibility.

5. The rules of this article also shall be applied to storage in motels, holiday homes, sanatoriums, dormitories and similar organizations, as well as in organizations that have designated places for storing outer clothing, hats and other similar things of citizens visiting the organization.

#### **Article 790. Storage of items of disputed ownership (sequestration)**

1. If any dispute arises between two or more persons, they shall under a sequestration agreement transfer the disputed thing to a third person who undertakes, upon the settlement of a dispute, to return the thing to the person to whom it will be awarded by court order or by agreement of all disputing persons (contract sequestration).

2. A thing of disputed ownership may be deposited by means of a sequestration by a court decision (judicial sequestration).

Bailee of a court sequestration can be either a person appointed by the court or a person determined by mutual consent of the parties in dispute. In both cases, bailee's consent is required, unless otherwise provided by legislative acts.

3. Both movable and immovable things can be transferred for storage in the order of sequestration.

#### **Paragraph 3. Storage at warehouse**

##### **Article 791. Warehouse**

A warehouse is a commercial organization that stores goods and provides services related to storage as an entrepreneurial activity.

##### **Article 792. Warehouse of common use**

1. A warehouse is recognized as a warehouse of common use if in accordance with legislative acts, it is not classified as a warehouse that can receive goods for storage from a limited number of persons.

2. A warehouse contract concluded by a warehouse of common use is recognized as a standard form contract (Article 387 of this Code).

##### **Article 793. Obligations of warehouse**

1. The warehouse shall comply with the conditions (mode) of storage established in the standards, technical conditions, technological instructions, instructions for storage, rules for

the storage of certain types of goods, other special regulatory documents required for the warehouse.

2. Warehouse is obliged to inspect the goods at its own expense upon acceptance for storage.

3. Warehouse shall provide the owner with the opportunity to inspect the goods or their samples, if they are stored with anonymity, taking samples and taking measures necessary to ensure the safety of the goods.

4. In the case when it is necessary to urgently change the storage conditions to ensure the safety of goods, the warehouse may take the required urgent measures independently. It is obliged to notify the warehouse owner of the measures taken.

5. Upon detection of damage to the goods, the warehouse shall immediately draw up a statement and notify the commodity owner at the address to the warehouse he declared.

#### **Article 794. Requirements commodity owner to the warehouse**

Unless otherwise provided by the contract, the commodity owner shall be obliged to declare to the warehouse about the loss, shortage or damage to the goods resulting from inadequate storage upon receipt of the goods from the warehouse, and about hidden damages - during the normal period required for their detection. If the damage and shortage of goods shall not be declared to warehouse in the appropriate time frame, the warehouse shall not be liable for losses, unless the losses are caused due to his intent or gross negligence.

#### **Article 795. Reimbursement of warehouse storage expenses**

Warehouse may reimbursement of the rates of expenses provided for by the contract or established by legislative acts for additional operations carried out in the interests of the bailor (insurance of goods, loading and unloading, payment of customs duties, etc.). This right shall be secured by the right of the warehouse to hold the stored goods.

#### **Article 796. Refusal of warehouse from storage contract**

Warehouse may refuse to perform the storage contract in cases where the bailor has concealed the dangerous nature of the goods, which threatens to cause significant damage.

#### **Article 797. Warehouse documents**

1. Warehouses may issue the following warehouse documents in confirmation of acceptance of goods for storage:

- 1) regular warehouse certificate;
- 2) double warehouse certificate.

1-1. In the cases stipulated by the legislative acts of the Republic of Kazakhstan, warehouses shall be obliged to issue double or regular warehouse certificates confirming acceptance of goods with personal identity for storage.

2. Double warehouse certificate, each part of it and a regular warehouse certificate are securities.

3. Double and regular warehouse certificates can be pledged.

**Footnote. Article 797 as amended by Law of the Republic of Kazakhstan dated 12 January 2007 No.225 (shall be enforced from the date of its official publication).**

#### **Article 798. Regular warehouse certificate**

1. Regular warehouse certificate is issued for a bearer.

2. Regular warehouse certificate shall contain the information provided for in subparagraphs 2), 3), 5) -10) of paragraph 2 of Article 799 of this Code, as well as an indication that it is issued to the bearer.

#### **Article 799. Double warehouse certificate**

1. Double warehouse certificate consists of a warehouse certificate and a pledge certificate (warrant), which identical in content and, if necessary, separable from one another.

2. Each part of the double warehouse certificate shall contain:

- 1) the name of the relevant part of the double warehouse certificate;
- 2) the name and address of the warehouse that accepted the goods for storage;
- 3) the current number of the warehouse certificate in the warehouse registry;
- 4) name of the organization or the name of the citizen from whom the goods are accepted for storage, as well as the location (residence) of the commodity owner;
- 5) name and quantity of goods, number of commodity places;
- 6) the amount of the accepted goods, unless otherwise provided by the legislative acts of the Republic of Kazakhstan;
- 7) the period for which the goods are accepted for storage, if any;
- 8) tariffs and payment for storage;
- 9) date of issue of the warehouse certificate;
- 10) the signature of the authorized person and the seal of the warehouse (if any).

Legislative acts of the Republic of Kazakhstan may establish additional requirements for the form and content of a double warehouse certificate.

**Footnote. Article 799 as amended by Law of the Republic of Kazakhstan dated 12.01.2007 No.225 (shall be enforced from the date of its official publication); dated 12.29.2014 No.269-V (shall be enforced from 01.01.2015).**

#### **Article 800. The rights of the bearer of a double warehouse certificate for the goods**

1. Bearer of a double warehouse certificate may dispose of the goods stored in the warehouse in full.

2. The holder of the warehouse certificate, separated from the pledge certificate, may dispose of the goods, but cannot take it from the warehouse until the loan is repaid, issued on the pledge certificate. Holder of the warehouse certificate can transfer the ownership of the stored goods by cutting the transfer letter (endorsement) and delivering the document itself, but without moving the goods.

3. Buyer, who received the warehouse certificate on the endorsement with the mortgage certificate not separated from it, becomes the owner of the warehouse goods free from the pledge. When purchasing a warehouse certificate without a pledge certificate, it is assumed that the ownership of the goods is encumbered with the pledge right. Data about the conditions of the pledge (about the amount and the term for establishing the pledge right for the goods) can be obtained from the warehouse registry, which is open for review by interested parties.

4. Holder of the pledge certificate has the pledge right to the goods in the amount of the loan issued and remuneration on this certificate. When establishing the security rights for the goods, a note shall be made on the warehouse certificate.

5. Buyer or seller may release the goods from the pledge by making the appropriate amount provided by the pledge to the pledgee (creditor) or the warehouse that shall be obliged to transfer it to the rightful holder of the pledge certificate.

6. Holder of a pledge certificate in case of failure to meet his claim, secured by a pledge, shall have the right to sell the goods pledged to him by the pledge certificate in accordance with the procedure established by legislative acts and cover his claim primarily to other creditors of the pledger. If the amount received is insufficient, the holder of the pledge certificate shall recover the part not received from all the endorsers who are jointly and severally liable for paying the claim secured by the pledge certificate.

**Footnote. Article 800, as amended by Law of the Republic of Kazakhstan dated January 12, 2007 No.225 (shall be enforced from the date of its official publication).**

#### **Article 801. Transfer of warehouse and pledge certificates**

Warehouse certificate and a pledge certificate may be transferred together or separately by transfer letter (endorsements).

#### **Article 802. Issuance of goods on a double warehouse certificate**

1. Warehouse gives the goods to the holder of the warehouse and pledge certificate (double warehouse certificate) in exchange for both of these certificates together.

Holder of the warehouse certificate, which does not have a mortgage certificate, but contributed the amount of debt on it, the goods shall be issued by the warehouse only in

exchange for a warehouse certificate and subject to the payment of the entire amount of the debt on the mortgage certificate.

2. Holder of the warehouse and pledge certificates may demand the issue of goods in parts . At the same time, in exchange for the initial certificates, he is issued new certificates for goods left in stock.

3. Warehouse, contrary to the requirements of this article, that issued the goods to the holder of the warehouse certificate who does not have a pledge certificate and has not paid the amount of the debt on it, shall be liable to the holder of the pledge certificate for paying the entire amount due thereto.

## **Chapter 40. Insurance**

### **Article 803. Insurance contract**

1. Under the insurance contract, one party (the insured) shall be obliged to pay the insurance premium, and the other party (the insurer) shall undertake to pay the insurance premium to the policyholder or other person in whose favor the contract (beneficiary) is made , within the limits of the contract amount (insured amount) .

Legislative acts of the Republic of Kazakhstan may provide for cases of making other payments in the manner and on the conditions provided for by the insurance contract.

2. Insurance is carried out on the basis of an insurance contract.

**Footnote. Article 803 as amended by Laws of the Republic of Kazakhstan dated 18.12.2000 No.128; dated 05.07.2006 No.164 (the order of enforcement, see art. 2); dated 15.07.2010 No.338-IV (the order of enforcement, see Article 2).**

### **Article 804. Insurance relationships regulated by this Code**

This Code regulated the relationship between the insurer and the insured, as well as their relationship with the insured and beneficiaries that arise in the process of entering into and executing the insurance contract.

### **Article 805. Forms of insurance**

1. Forms of insurance are as following:

- 1) by the obligation level -voluntary and obligatory;
- 2) by the insurance object-private and property;
- 3) by the insurance payment basis - cumulative and non-accumulative.

2. Other classification may be provided by legislative acts for the purposes of licensing insurance activities.

**Footnote. Article 805 - as amended by Law of the Republic of Kazakhstan dated December 18, 2000 No.128.**

## **Article 806. Obligatory and voluntary insurance**

### 1. Obligatory insurance:

1) insurance, carried out by virtue of the requirements of legislative acts, the types, conditions and procedure of which are established by separate legislative acts of the Republic of Kazakhstan regulating mandatory types of insurance;

2) insurance, in which the requirement of obligatory insurance, the types and minimum insurance conditions (including the insurance object, insurance risks and minimum insurance amounts) are established by legislative acts of the Republic of Kazakhstan, and other conditions and insurance procedures are determined by agreement of the parties (imputed insurance).

2. The obligation to insure one's life or health shall not be assigned to a citizen neither by legislative acts of the Republic of Kazakhstan, nor by a contract.

Obligatory insurance shall be executed at the cost of the insured.

Obligatory insurance, the types, conditions and procedure of which are established by a separate legislative act of the Republic of Kazakhstan regulating the obligatory type of insurance, can be introduced subject to economic feasibility, mass character and social significance.

3. In cases when the insurance obligation does not arise from a legislative act of the Republic of Kazakhstan, but is based on a contract, such insurance shall not be obligatory and does not entail the consequences provided for in Article 808 of this Code.

4. When concluding obligatory insurance contract, the types, conditions and procedure of which are established by a separate legislative act of the Republic of Kazakhstan governing the obligatory type of insurance, the policyholder shall be obliged to conclude an agreement with the insurer under the conditions prescribed by this legislative act of the Republic of Kazakhstan.

In case of imputed insurance, the contract with the insurer shall be concluded on the conditions determined by agreement of the parties, subject to the minimum conditions established by the legislative acts of the Republic of Kazakhstan.

5. Obligatory insurance contract, the types, conditions and procedure of which are established by a separate legislative act of the Republic of Kazakhstan regulating the obligatory type of insurance, shall be concluded only with an insurer licensed to carry out this type of insurance. The conclusion of obligatory insurance contract, the types, conditions and procedure of which are established by a separate legislative act of the Republic of Kazakhstan governing the compulsory type of insurance, for an insurer licensed to carry out this type of insurance, is obligatory.

6. Voluntary insurance is insurance carried out by the will of the parties.

Types, conditions and procedure for voluntary insurance shall be determined by agreement of the parties.



Footnote. Article 806 as amended by Law of the Republic of Kazakhstan dated 02.07.2018 No.166-VI (shall be enforced upon the expiry of ten calendar days after its first official publication).

#### **Article 807. Object of insurance**

1. Objects of property and personal insurance can be any property interests of citizens and legal entities, including those related to:

- 1) achieving of a certain age of citizens or period established by the insurance contract, death, the occurrence of certain events in the life of citizens;
- 2) causing harm to the life and health of citizens as a result of accidents and other events, diseases;
- 3) possession, use and disposal of property;
- 4) the obligation to compensate damage caused to other persons, including as a result of violation of the contract (obligations).

The insurance object for obligatory insurance shall be determined by the legislative acts of the Republic of Kazakhstan.

2. Illegal property interests of the insured shall not be subjected to insurance.

3. Insurance contracts with the object of property interests stipulated by clause 2 of this article, or with no insurance object shall be considered null and void.

Footnote. Article 807 as amended by Laws of the Republic of Kazakhstan dated 20.02.2006 No.128 (the order of enforcement, see in Article 2); dated 07.05.2007 No.244; dated 27.02.2017 No.49-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication); dated 02.07.2018 No.166-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).

#### **Article 808. Consequences of violation of the rules on obligatory insurance**

1. A person in whose favor obligatory insurance shall be carried out in accordance with legislative acts, has the right, if he becomes aware that he is not insured, to require legal insurance from the person entrusted with this duty.

2. If person entrusted with the insurance has failed to execute it or concluded an insurance contract on conditions that worsen the position of the insured in comparison with what is provided for by legislative acts, this person shall be liable to the insured under the same conditions that an insurance payment would be made with proper insurance.

3. A person who is entrusted by legislative acts to act as an insurer shall have the right to require in court the coercion of the insurer, who is obliged, in accordance with paragraph 5 of Article 806 of this Code, to carry out insurance, but evades it, to conclude an insurance contract under the conditions stipulated by legislative acts.

4. Evasion from insurance of a person who is obliged to carry it out as an insurer, as well as an insurance organization that is obliged to act as an insurer, entails the responsibility provided for by legislative acts.

**Footnote. Article 808 is amended by Law of the Republic of Kazakhstan dated December 18, 2000. No.128.**

#### **Article 809. Private and property insurance**

1. Private insurance includes life insurance, health, disability and other property interests related to the identity of a citizen.

Under private insurance contract, both the insured and the other person named in the contract can be insured (insured person).

2. Property insurance includes property insurance and related property interests.

3. On insuring property the risk of loss (destruction), shortage or damage to property and other property benefits and rights provided for in Article 115 of this Code is insured.

4. Property insurance contract concluded in the absence of the insured or beneficiary's interest in preserving the insured property may be recognized by the court invalid.

5. On insuring civil liability, the risk of liability is insured for obligations arising from damage to life, health or property of third parties, as well as liability for obligations arising from contracts.

**Footnote. Article 809 as amended by Laws of the Republic of Kazakhstan dated 18.12.2000 No.128; dated 20.02.2006 No.128 (the order of enforcement see in Article 2); dated 27.02.2017 No.49-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).**

#### **Article 809-1. Accumulative insurance**

1. Accumulative insurance is insurance that provides for the payment of insurance upon the occurrence of an insured event, including upon the expiry of the period established by the insurance contract or another event stipulated by the insurance contract, depending on which of them comes first.

2. Non-accumulative insurance is insurance that provides for the insurance payment only upon the occurrence of an insured event that has the features stipulated in paragraph 3 of Article 817 of this Code.

3. Annuity insurance contract is an insurance contract according to which the insurer shall be obliged to make insurance payments in the form of periodic payments in favor of the beneficiary during the period specified in the contract.

4. Accumulative insurance contracts can be concluded solely for personal insurance

5. Annuity insurance contract refers to accumulative insurance contracts.

Footnote. The Code is supplemented by Article 809-1 in accordance with Law of the Republic of Kazakhstan dated 18.12.2000 No.128; as amended by Law of the Republic of Kazakhstan dated 20.02.2006 No.128 (the order of enforcement, see in Article 2); dated 02.07.2018 No.166-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).

#### **Article 810. Insurance of entrepreneur risk**

Footnote. Article is excluded by Law of the Republic of Kazakhstan dated February 20, 2006 No.128 (the order of enforcement, see in Article 2).

#### **Article 811. Insurance of civil liability for injury**

Footnote. Article is excluded by Law of the Republic of Kazakhstan dated February 20, 2006 No.128 (the order of enforcement, see in Article 2).

#### **Article 812. Civil-legal liability insurance under the agreement**

Footnote. Article is excluded by Law of the Republic of Kazakhstan dated February 20, 2006 No.128 (the order of enforcement, see in Article 2).

#### **Article 813 Policy holder**

1. Policy holder is a person who concluded insurance agreement with an insurer.
2. Policy holder can be represented by legal entities and citizens.
3. The policy holder shall be free to choose an insurer for both voluntary and obligatory forms of insurance, unless otherwise established by certain legislative acts of the Republic of Kazakhstan governing mandatory types of insurance.

Footnote. Article 813 as amended by Law of the Republic of Kazakhstan dated 18.12.2000 No.128; dated 02.07.2018 No.166-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).

#### **Article 814. Insurer**

Insurer is the person who shall carry out the insurance, i.e. when the insured event occurs, he shall make an insurance payment to the policy holder or other person in whose favor the agreement (beneficiary) is concluded, to the extent specified in the agreement amount (insured amount).

The insurer shall be only be a legal entity registered as an insurance organization and having a license to carry out insurance activities or a mutual insurance company in accordance with the legislative act of the Republic of Kazakhstan on mutual insurance.

Footnote. Article 814 is amended by Law of the Republic of Kazakhstan dated December 18, 2000. No.128; dated July 5, 2006 No.164(enforcement procedure see in Article 2).

## **Article 815. Insured**

1. Insured person is a person in respect of whom the insurance shall be carried out.

Unless otherwise provided by the agreement, the policy holder is at the same time insured.

2. Legislative acts on the policyholder shall be obligated to carry out the insurance of a third party. In case of voluntary insurance, the policyholder may determine a third party as an insured person in the insurance agreement. In these cases the insurance object is either the identity of the insured and his related interests (personal insurance of the insured), or property of the insured and property interests (property insurance of the insured).

When insuring property, the insured, who is not the policy holder, shall have an interest in preserving this property.

3. If under the terms of the agreement the insured, who is not the policy holder, has certain obligations, the policy holder shall obtain the consent of the insured to conclude this agreement.

In case of compulsory insurance, as well as with group impersonal insurance, the consent of a third party to conclude an agreement where it will be determined as an insured shall not be required.

In case of voluntary insurance, the objection of a person regarding his personal or property insurance entails the impossibility of concluding a contract, and if it has already been concluded - termination of the contract.

4. If the policy holder has the obligation to insure a third party, this person may demand from the policy holder a report on the fulfillment of this obligation, and in cases provided for by legislative acts, to receive a document indicating that it is insured.

If the policyholder fails to fulfill or improperly fulfills his obligation to insure a third party, the latter is entitled to apply the measures provided for by clauses 1 and 2 of Article 808 of this Code.

5. If the insured is a minor citizen, his rights shall be exercised in the manner prescribed in Articles 22-24 of this Code.

6. The conclusion of the agreement in favor of the insured shall not relieve the policy holder from the performance of obligations under this agreement.

Third party insurance shall be at the expense of the policy holder.

7. If the insured refused to receive the insurance payment due to him in accordance with the agreement, the right to receive the insurance payment passes to the policy holder.

8. In the case of the death of an insured who is not the policy holder in respect of whom a personal insurance agreement has been concluded that does not provide for such a case, this agreement shall be subject to termination, unless legislative acts or the agreement provide for the replacement of the insured.

If the death of the insured was the insured case that is provided for by the insurance agreement, this agreement shall be executed on the conditions provided for by it.

In the case of the death of an insured who is not the policy holder in respect of whom a property insurance agreement has been concluded, the rights and obligations of the insured with the consent of the policy holder shall be transferred to the heirs of the property and those property rights of the insured that were object of insurance unless otherwise provided by legislative acts or contract.

If the policyholder does not agree to replace the deceased insured or the heirs of the insured do not agree to accept his rights and obligations arising from the insurance agreement, this contract shall be subject to termination.

9. Provisions of Article 391 of this Code, to the extent that they do not contradict the provisions of this Article shall be applied to insurance agreement in favor of a third party (the insured).

**Footnote. Article 815 as amended by Law of the Republic of Kazakhstan dated December 18, 2000. No.128; dated May 7, 2007 No.244.**

### **Article 816. Beneficiary**

1. Beneficiary is a person who is the recipient of the insurance payment in accordance with the insurance agreement or legislative acts of the Republic of Kazakhstan.

Beneficiary can be both a legal entity and a citizen.

Beneficiary may be appointed for both personal and property insurance.

In case of obligatory insurance, the types, conditions and procedure of which are established by a certain legislative act of the Republic of Kazakhstan governing the mandatory type of insurance, the beneficiary shall be determined by this legislative act of the Republic of Kazakhstan, with imputed insurance - by legislative acts of the Republic of Kazakhstan or by agreement of the parties. In case of voluntary types of insurance, the beneficiary shall be appointed by the policy holder.

2. Unless otherwise provided by the legislative acts of the Republic of Kazakhstan or the insurance agreement, the policyholder shall be the beneficiary.

If the policyholder is not insured, the beneficiary shall be the insured, or he shall be appointed with the written consent of the insured.

If the beneficiary is not indicated in the insurance agreement the insured shall be implied.

**3. (Excluded - dated February 20, 2006 No.128).**

**4. (excluded – No.128 of December 18, 2000)**

5. In the case when the insured is simultaneously a beneficiary, the provisions of Article 815 of this Code shall be applied to the latter.

6. In the case of the death of the beneficiary who is not the insured, or his refusal of the rights of the beneficiary, the rights of the latter shall be transferred to the policy holder.

In the case of the death of the beneficiary who is the insured, the consequences stipulated by paragraph 8 of Article 815 of this Code shall occur.

7. If the death of the insured was the case provided by the insurance agreement, then in the case when such insured is not the policy holder or is the insured, but the beneficiary is not specified in the contract, the heirs of the insured shall be recognized as beneficiaries.

8. In the insured case, the beneficiary is entitled to file a claim directly to the insurer for the payment of the insurance indemnity provided for in the insurance agreement.

9. The conclusion of the agreement in favor of the beneficiary shall not relieve the policy holder from the performance of obligations under this agreement.

**Footnote. Article 816 as amended by the Laws of Republic of Kazakhstan dated December 18, 2000 No.128; dated February 20, 2006 No.128 (the order of enforcement, see in Article 2); dated July 2, 2018 No.166-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).**

#### **Article 817. Insurance interest and insurance case**

**Footnote. Heading of article 817 is in the wording of Law of the Republic of Kazakhstan dated July 2, 2018 No.166-VI (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

1. Insurance agreement shall provide the availability for an insurable interest.

1-1. Insurable interest is the property interest of the policy holder (insured, beneficiary) in preventing risks and preventing the occurrence of an insured case, with the exception of events that may be provided for under an accumulation insurance agreement.

1-2. Insured case is a case with the onset of which the insurance agreement shall provide for the payment of insurance.

2. Types of insurance cases for obligatory insurance shall be determined by legislative acts of the Republic of Kazakhstan, and for voluntary insurance - by agreement of the parties.

3. A case considered as an insured event shall have all the following signs (with the exception of cases that may be provided for under an agreement of accumulative insurance):

probability and chance of a case;

unpredictability regarding the certain time or place of occurrence of the case, as well as the amount of losses as a result of the occurrence of the case;

the absence of the risk inevitable and objective occurrence of the case within the scope of the agreement, which the parties or, at least, the policyholder knew or were aware beforehand

;

the occurrence of an case has negative, unfavorable economic consequences for the insurer's property interest (the insured, the beneficiary);

the occurrence of the event is not related to the will and (or) intent of the policyholder (the insured, the beneficiary) and does not provide for the purpose of extracting benefits and (or) receiving a gain (speculative risk).

4. Policyholder (beneficiary, insured) shall be in charge of proving the occurrence of the insured case, as well as the damages caused to them.

Footnote. Article 817 as amended by the Laws of Republic of Kazakhstan dated December 18, 2000 No.128; dated July 15, 2010 No.338-IV (the order of enforcement, see in Article 2); dated July 2, 2018 No.166-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).

## **Article 818 Insurance premiums**

1. Insurance premium is the amount of money that the policyholder shall pay to the insurer for the latter to make an obligation to make insurance payments to the policyholder (beneficiary) in the amount specified in the insurance agreement.

The insurance premiums received by the insurer from the policyholder belong to him by right of ownership, with the exception of part of the insurance premiums received from insurers for investment purposes and incomes (losses) received from their investment under insurance agreements providing for the condition of participation of the insured in investments, as well as provided for by paragraph 3 of Article 845-1 of this Code

2. Amounts of insurance premiums shall be established by the agreement. In case of obligatory insurance the amount of insurance premiums shall be established by a separate legislative act of the Republic of Kazakhstan regulating the mandatory type of insurance.

The procedure and terms of insurance premiums payments shall be determined by the agreement. In case of obligatory insurance they may be determined by legislative acts of the Republic of Kazakhstan.

3. Determining the amount of insurance premiums payable under an insurance agreement, the parties shall apply insurance rates developed by the insurer, which determine the rate of insurance premium charged to the insurance amount unit, taking into account the object of insurance and the nature of insurance risk.

4. The agreement shall provide for the payment of insurance premium in installments in the form of periodic insurance premiums.

5. If the insurance agreement provides for the payment of insurance premiums by installments, the agreement shall determine the consequences of non-payment of regular insurance contributions within the established deadlines, including early termination of the agreement.

6. If the insured event occurred before the payment of a certain insurance premium, the payment of which is overdue, the insurer shall be entitled to deduct the amount of the overdue insurance premium when determining the amount of insurance payment.

Footnote. Article 818 as amended by Laws of the Republic of Kazakhstan dated December 18, 2000 No.128; dated February 20, 2006 No.128 (the order of enforcement, see in Article 2); dated May 7, 2007 No.244; dated April 27, 2015 No.311-V (shall be enforced upon the expiry of ten calendar days after the day of its first official publication); dated July 2, 2018 No.166-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).

## **Article 819. Insured sum**

1. Insured sum is the amount of money for which the insured object is insured and which represents the insurer's maximum liability in case of an insured event.

2. The amounts of insurance sums (with the exception of annuity insurance agreements and insurance agreements that stipulate the condition for the participation of the insured in investments) shall be established by the agreement. In case of obligatory insurance, they may not be less than the amount established by legislative acts of the Republic of Kazakhstan.

3. In case of insuring property, the insured amount shall not exceed its actual value at the time of the conclusion of the agreement (insured value).

4. The parties shall not dispute the value of the property specified in the insurance contract, unless the insurer proves that it was intentionally misled by the insured. If the insured sum determined by the insurance agreement exceeds the insured value, it is invalid in that part of the insured sum that exceeds the insured value at the time of the conclusion of the agreement.

5. Excluded – No.128 dated February 20, 2006 (the order of enforcement see in Art. 2).

Footnote. Article 819 as amended by the Laws of Republic of Kazakhstan dated Decembe18, 2000 No.128; dated February 20, 2006 No.128 (the order of enforcement, see in Article 2); dated February 27, 2017 No.49-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication); dated July 2, 2018 No.166-VI ( shall be enforced upon the expiry of ten calendar days after the date of its first official publication).

## **Article 820. Insurance payment**

1. Insurance payment is the amount of money paid by the insurer to the policyholder ( beneficiary) within the sum insured upon the occurrence of the insured event or upon the maturity specified in the agreement of accumulative insurance.

Insurance payment shall be made by a single payment except for insurance payments under annuity insurance agreements.

2. Procedure for determining the amount of the insurance payment shall be established by the contract. In case of obligatory insurance, the procedure for determining the amount of insurance payment shall be established by a separate legislative act of the Republic of Kazakhstan regulating the obligatory type of insurance.

3. Procedure and terms for making insurance payments shall be determined by the agreement.

In case of obligatory insurance they may be determined by legislative acts of the Republic of Kazakhstan.



4. Insurance payment for property insurance and civil liability shall not exceed the amount of actual damage suffered by the policyholder (insured) as a result of the insured case.

5. Insurance payment for personal insurance shall be made paid to the policyholder (insured), regardless of the amount of social security due to him, under other insurance agreements and by way of compensation for harm.

6. Terms of the property insurance agreement may provide for the replacement of the insurance payment by compensation for damage in kind within the limits of the amount of the insurance payment.

7. Paying an insurance payment the insurer shall have the right to offset the insurance premiums or insurance contributions due to it from the policyholder.

8. Insurer shall be liable in accordance with Article 353 of this Code for late payment of insurance payments, if a higher amount of liability is not provided for by the agreement or legislative acts of the Republic of Kazakhstan.

**Footnote. Article 820 as amended by Law of the Republic of Kazakhstan dated December 12, 2000 No.128; dated February 20, 2006 No.128 (the order of enforcement, see Article 2); dated July 2, 2018 No.166-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).**

#### **Article 821. Double insurance**

1. Double (multiple) insurance is insurance of the same object with several insurers under independent agreement with each.

2. In case of double insurance of property, each insurer shall be liable to the policyholder within the limits of the agreement concluded with it, however the total amount of insurance payments received by the policyholder from all insurers shall not exceed the actual damage.

In this case, the policyholder is entitled to receive the insurance payment from any insurer in the amount of the insured amount provided for in the agreement concluded with him. If the received insurance payment does not cover the actual damage, the policyholder shall be entitled to receive the missing amount from another insurer.

The insurer, fully or partially exempted from insurance payment due to the fact that the damage caused is compensated by other insurers, shall be obliged to return to the policyholder the relevant part of insurance premiums, less expenses incurred.

3. In case of double (multiple) personal insurance, each insurer shall fulfill its insurance obligations to the policyholder independently, regardless of whether they are executed by other insurers.

**Footnote. Article 821 was amended by Law of the Republic of Kazakhstan dated December 18, 2000. No.128.**

#### **Article 822 Group insurance**

1. In case of group insurance, a single insurance agreement shall cover several insured persons who are at the same time beneficiaries.

2. Group insurance can be both personal and property, both personalized and impersonal, covering a certain category of persons.

In case of impersonal insurance, the circle of the insured shall be specified in the insurance agreement to the extent necessary for the individualization of the insured case, its consequences for each insured person and the amount of insurance payment due to him.

3. Collective insurance by the employer of its employees can only be personal insurance.

**Footnote. Article 822 is amended by Law of the Republic of Kazakhstan dated December 18, 2000. No.128.**

### **Article 823. Co-insurance and joint reinsurance**

1. The insurance object can be insured under a single co-insurance agreement jointly by several insurers by creating a simple partnership (insurance pool) on the basis of a joint activity agreement (co-insurance).

The reinsurance object can be insured under one joint reinsurance agreement jointly by several reinsurers by creating a simple partnership (reinsurance pool) on the basis of a joint activity agreement (joint reinsurance)

In this case, the co-insurance (co-reinsurance) agreement shall contain the conditions that determine the rights and obligations of each insurer (reinsurer) in the agreed shares.

The participants of the insurance (reinsurance) pool shall be jointly liable to the policyholder (beneficiary) or reinsurer for the obligations of the insurance (reinsurance) pool, including for making insurance payments, unless otherwise specified by the co-insurance (joint reinsurance) agreement.

2. If there is an appropriate agreement between insurers (reinsurers), one of them may represent all insurers (reinsurers) in relations with the policyholder (reinsurer).

3. The management and conduct of the common affairs of members of an insurance (reinsurance) pool may be carried out by an insurance fiscal agent if there is an appropriate agreement with members of the insurance (reinsurance) pool.

**Footnote. Article 823 as amended by Law of the Republic of Kazakhstan dated 02.07.2018 No.166-VI (shall be enforced upon the expiry of ten calendar days after its first official publication).**

### **Article 824. Reinsurance**

1. The insurer shall have the right, through reinsurance, to cover the risk of the performance of all or part of its obligations to the policyholder with another insurer (reinsurer).

The objects of reinsurance may be the property interests of the reinsurer associated with the risk of making insurance payments under the insurance (reinsurance) agreement concluded by him as an insurer (reinsurer).

Illegal property interests of the reinsurer shall not be subject to reinsurance.

Reinsurance agreements, the object of which are the illegal property interests of the reinsurer or in which there is no reinsurance object, shall be considered null and void.

2. The insurer who has concluded reinsurance agreement with the reinsurer (the re-policyholder) shall remain liable to the policyholder in full in accordance with the insurance agreement concluded with him.

3. The terms of reinsurance shall be determined by the legislative acts of the Republic of Kazakhstan and the reinsurance contract between the re-policyholder and the reinsurer.

The reinsurance agreement shall meet the requirements of this Code to the insurance agreement. The Islamic reinsurance agreement shall meet the requirements of this Code to the agreement of Islamic insurance. At the same time, the insurer under the main insurance agreement (Islamic insurance agreement) in the reinsurance agreement (Islamic reinsurance agreement) shall be considered to be the policyholder.

4. Excluded by the Law of the Republic of Kazakhstan dated July 2, 2018 No.166-VI ( shall be enforced upon expiry of ten calendar days after the date of its first official publication )

5. Consecutive conclusion of two or several reinsurance contracts shall be allowed.

Footnote. Article 824 as amended by Laws of the Republic of Kazakhstan dated 10.07.2003 No.483 (shall be enforced from January 1, 2004); dated February 20, 2006 No .128 (the order of entry into force, see Article 2); dated 27.04.2015 No.311-V (shall be enforced upon the expiry of ten calendar days after the day of its first official publication); dated 02.07.2018 No.166-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).

#### **Article 825. Form of insurance agreement**

1. Insurance agreement shall be concluded in a written form in the following way:

1) drawing up an insurance agreement by the parties;

2) accession of the insurer to the standard conditions of insurance provided for by the legislative acts of the Republic of Kazakhstan, or the insurance rules developed by the insurer unilaterally (the contract of adherence), and formalizing the policy of insurance by the insurer to the policyholder.

2. Form of the agreement on obligatory insurance shall be established by separate legislative acts of the Republic of Kazakhstan governing obligatory types of insurance, for imputed insurance - by agreement of the parties with observance of the minimum conditions stipulated by legislative acts of the Republic of Kazakhstan, and for voluntary insurance - by the insurer or by agreement of the parties.

In case of concluding an insurance agreement, the insurer shall be entitled to apply agreements developed by type of insurance in accordance with standard conditions or insurance rules.

3. Failure to comply the written form of the insurance agreement shall make it null and void.

Footnote. Article 825 as amended by Law of the Republic of Kazakhstan dated 02.07.2018 No.166-VI (shall be enforced upon the expiry of ten calendar days after its first official publication).

#### **Article 825-1. Rules of insurance**

1. Insurance rules shall be developed by the insurer for each type of insurance and shall comply with the requirements of this article.

2. The insurance rules shall include:

- 1) list of insurance objects;
- 2) order of determination of insured sum;
- 3) list of insurance cases;
- 4) exclusion from insurance cases and limitations of insurance;
- 5) terms and location of duration of insurance agreement;
- 6) order of conclusion of insurance agreement;
- 7) rules and obligations of the parties;
- 8) actions of the insurer in insurance case;
- 9) list of documents certifying the occurrence of insurance case and the amount of losses;
- 10) order and terms of insurance payments;
- 10-1) period for notifying the policyholder or the insured about the missing documents necessary for the payment of insurance;
- 11) term for making a decision on insurance payment or refusal of insurance payment;
- 12) terms of termination of insurance agreement;
- 13) order of dispute settlement including the peculiarities of dispute settlement under the the obligatory insurance;

14) excluded by the Law of Republic of Kazakhstan dated 20.02.2006 No.128 (the order of enforcement, see Article 2);

15) additional conditions

3. excluded by Law of the Republic of Kazakhstan dated 10.07.2003 No.483 (shall be enforced from 01.01.2004);

4. Under an agreement between the policyholder and the insurer, insurance agreements may be concluded on the basis of insurance rules providing for the amendment, exclusion of certain provisions of insurance rules, as well as additional conditions determined upon entering into an insurance agreement.

4-1. The conditions contained in the insurance rules and not included in the text of the insurance agreement are obligatory on the parties if the agreement directly indicates the application of such rules and the rules themselves are set out in the agreement or attached to it. In the latter case, the provision of insurance rules to the policyholder upon entry into the contract shall be certified by the parties to the agreement.

5. Excluded by Law of the Republic of Kazakhstan dated 30.12.2009 No.234-IV.

Footnote. The Code as amended by Article 825-1 in accordance with Law of the Republic of Kazakhstan dated 18.12.2000 No.128; as amended by Laws of the Republic of Kazakhstan dated 10.07.2003 No.483 (shall be enforced from 01.01.2004); dated February 20, 2006 No .128 (the order of entry into force, see Article 2); dated 12.30.2009 No.234-IV; dated 07.15.2010 No.338-IV (the order of enforcement, see Article 2); dated 02.07.2018 No.166-VI (shall be enforced upon the expiry of ten calendar days after the date of its first official publication).

#### **Article 826. Contents of an insurance contract**

1. Insurance contract shall contain:

- 1) name, registered address and bank details of the insurer;
- 2) surname and first names (if it is indicated in the ID card) and place of residence of the policyholder (if it is a private entity) or his / her name, registered address and bank details (if it is a legal entity);
  - 2-1) surname and first names (if it is specified in the ID card), contact phone number and Unique Identification Number of the insurance agent (if it is a private entity-resident of the Republic of Kazakhstan) or name, registered address, contact phone number and Business Identification Number of the insurance agent (if it is a legal entity-resident of the Republic of Kazakhstan);
- 3) an indication of the object of insurance;
- 4) an indication of the insured event;
- 5) the size of a sum insured (except for annuity insurance contracts and insurance contracts providing for the participation of the insured in investments), the procedure and timing of the insurance payment;
- 6) the amount of the insurance premium, the procedure and terms of payment;
  - 6-1) the amount of the insurer's remuneration for the management of the Islamic Insurance Fund, the conditions and procedure for its payment (at the conclusion of the Islamic Insurance Contract);
  - 6-2) an indication of the presence or absence of Commission remuneration due to the insurance agent;
- 7) date of conclusion and term of the contract;
- 8) instructions on the insured and the beneficiary, if they are participants in the insurance relationship;

9) number, a series of the contract (the insurance policy);

10) cases and procedure for amending the terms of the agreement;

10-1) the obligation of the policyholder to immediately inform the insurer of significant amendments in the circumstances reported to the insurer at the conclusion of the contract, if these amendments can significantly affect the increase in the insurance risk during the period of the property insurance contract (Paragraph 1 of Article 834 of this Code);

11) terms of payment and the amount of the redemption sum (for accumulative insurance, with the exception of insurance contracts providing for the condition of the policyholder's participation in investments);

11-1) terms of notification of the policyholder or the insured about the missing documents necessary for the insurance payment;

12) as terminated by the Law of the Republic of Kazakhstan dated January 12, 2012 No. 538-IV (effective from January 1, 2013); 13) as terminated by the Law of the Republic of Kazakhstan dated January 12, 2012 No. 538-IV(effective from January 1, 2013);

14) type of currency of the sum insured, insurance payment and insurance premium;

15) indication of the identification number, residence and economic sector of the policyholder;

16) indication of the identification number, residence and economic sector of the insured (beneficiary), if he / she is not the policyholder under the insurance contract, if the insured (beneficiary) is specified in the insurance contract.

2. By agreement of the parties, other conditions may be included in the contract.

2-1. Reduction franchise - the insurer's exemption from compensation for damage not exceeding a certain amount provided for by the terms of insurance.

Reduction franchise can be conditional (non-deductible) and unconditional (deductible).

In the case of a conditional (non-deductible) franchise, the insurer shall be exempt from compensation for damage not exceeding the established amount of the franchise, but shall compensate the damage in full if its amount is greater than this amount.

In case of an unconditional (deductible) franchise, the damage in all cases shall be compensated less the established amount.

The franchise is set either as a percentage of the sum insured or in the absolute amount.

3. If the insurance contract contains conditions that worsen the position of the policyholder in comparison with those provided by legislative acts, the rules established by these legislative acts shall apply.

4. The period of the reinsurer's liability under the reinsurance contract shall correspond to the period of the insurer's liability under the insurance contract, the obligations under which are transferred to reinsurance, unless the reinsurance contract provides otherwise.

5. The insurer is responsible for the incompleteness of the conditions to be specified in the insurance contract.

Footnote. Article 826, as amended by Laws of the Republic of Kazakhstan dated December 18, 2000 N 128 ; dated February 20, 2006 N 128 ( procedure for enforcement see Article 2) ; dated January 12, 2007 N 225 (effective as of the day of its official publication); dated December 30, 2009 N 234-IV; dated July 15, 2010 No. 338-IV( procedure for enforcement see Article 2); dated January 12, 2012 No. 538-IV ( procedure for enforcement see Article 2); April 27, 2015 No. 311-V ( effective upon expiry of ten calendar days after its first official publication); from July 2, 2018 № 166-VI ( effective upon expiry of ten calendar days after the date of its first official publication).

#### **Article 826-1. Deferral of repayment of the insurance premium under the contract of accumulative insurance**

1. The insurer who has not received the insurance premium (except for the first one) within the term established by the accumulative insurance contract shall notify the policyholder of the need to pay the insurance premium.

2. The notification shall contain:

1) the period during which it is necessary to pay the insurance premium (the period of deferral of the insurance premium);

2) the amount of late payment charge of the insurance premium;

3) the right of the insurer to unilaterally terminate the contract in the event of non-payment of the insurance premium during the deferral period of the insurance premium.

3. The deferral period may not be less than 30 calendar days.

4. Upon the occurrence of an insured event during the deferral period of the insurance premium under the contract of accumulative insurance, the insurer is obliged to make an insurance payment, withholding the amount of debt.

5. Notification of the need to pay the insurance premium shall be sent to the policyholder in a way that allows to confirm the sending of the notification.

Footnote. The Code is amended by adding Article 826-1 in accordance with Law of the Republic of Kazakhstan dated December 18, 2000 N 128; as amended by laws of the Republic of Kazakhstan dated February 20, 2006 N 128 ( procedure for enforcement see Art. 2); dated July 15, 2010 No. 338-IV ( procedure for enforcement see Art. 2).

#### **Article 826-2. Renewal of the accumulative insurance contract validity**

1. If the accumulative insurance contract validity has been suspended or terminated on the basis of non-payment of the insurance premium by the policyholder, the insurer shall be obliged to renew the contract validity upon payment by the policyholder:

1) ( excluded - dated February 20, 2006 N 128 ( procedure for enforcement see Art. 2);

2) outstanding premiums;

3) late payment charge of insurance premiums at the amount provided for in Article 353 of this Code.

2. The policyholder has the right to renew the accumulative insurance contract validity within one year from the date of termination of the contract or suspension of the parties' performance of their obligations.

3. The insurer shall have the right to arrange medical examination of the insured person to renew the accumulative insurance contract validity.

In case of the insured person health deterioration the insurer shall be entitled to recalculate the amount of the insurance benefit and (or) the insurance premium. If the policyholder refuses to renew the contract validity under the new conditions, the contract shall not be renewed.

4. The insurer shall have the right to refuse to renew the accumulative insurance contract validity if such contract has been terminated prematurely and the insurer has paid the redemption sum.

**Footnote. Amended by adding Article 826-2 - Law of the Republic of Kazakhstan dated December 18, 2000 N 128; as amended - dated February 20, 2006 N128 ( procedure for enforcement see Art. 2).**

#### **Article 826-3. Insurance under the contract by the general insurance policy registration**

1. Under the agreement of the policyholder with the insurer, systematic insurance of different lots of homogeneous property (goods, cargo and other) on similar terms and conditions can be carried out within a certain period on the basis of one insurance contract by issuing a general insurance policy to the policyholder.

2. The policyholder shall be obliged, in respect of each consignment of property subject to the agreement referred to in Paragraph 1 of this Article, to inform the insurer of the information provided for in such agreement within the period provided for by it, and if it is not provided for, immediately upon receipt thereof. The policyholder shall not be released from this obligation, even if by the time of receipt of such information the possibility of losses to be indemnified by the insurer has already passed.

3. At the request of the policyholder, the insurer shall be obliged to issue insurance policies for individual lots of property subject to the contract specified in Paragraph 1 of this Article.

In case of discrepancy of the contents of the insurance policy to the general insurance policy preference is given to the insurance policy.

**Footnote. The Code is amended by adding Article 826-3 in accordance with Law of the Republic of Kazakhstan dated December 12, 2000 No. 128; amended by Law of the Republic of Kazakhstan dated July 2, 2018 No. 166-VI ( effective upon expiry of ten calendar days after the date of its first official publication).**



## **Article 827. Validity of insurance contract**

1. The insurance contract shall enter into force and become binding on the parties from the date of payment of the insurance premium by the policyholder, and upon payment in deferred account - the first insurance premium, unless otherwise provided by the contract or legislative acts of the Republic of Kazakhstan.

2. The Insurance Contract shall be terminated from the moment of insurance payment for the first insured event, unless otherwise provided by the contract or legislative acts of the Republic of Kazakhstan.

3. The period of insurance coverage coincides with the term of the contract, unless otherwise provided by the contract or legislative acts of the Republic of Kazakhstan.

**Footnote. Article 827 as amended by Law of the Republic of Kazakhstan dated December 18, 2000 No. 128; dated July 2, 2018 No. 166-VI ( effective upon the expiry of ten calendar days after the date of its first official publication).**

## **Article 828. Obligations of the Insurer**

1. The insurer is obliged:

1) upon the occurrence of an insured event, make an insurance payment in the amount, procedure and terms established in the insurance contract or legislative acts;

1-1) familiarize the policyholder with the insurance rules and, upon request, submit (send) a copy of the rules;

2) reimburse the policyholder (insured) for the expenses incurred to reduce losses in the event of an insured event;

3) ensure the secrecy of insurance;

4) in cases of failure by the policyholder (insured) or the victim (beneficiary) or their representative to submit all the documents necessary for the insurance payment, notify them of the missing documents within the period established by the insurance contract.

2. Legislative acts on insurance and insurance activities, as well as the insurance contract may provide for other obligations of the insurer.

**Footnote. Article 828, as amended by laws of the Republic of Kazakhstan dated December 18, 2000 N 128; dated December 30, 2009 No. 234-IV; dated July 15, 2010 No. 338-IV (procedure for enforcement see Art. 2); dated July 2, 2018 No. 166-IV (effective upon expiry of ten calendar days after its first official publication).**

## **Article 829. Reimbursement of expenses aimed at reducing losses from the insured event**

1. Upon the occurrence of an insured event provided for in the property insurance contract, the policyholder (insured) shall be obliged to take reasonable and accessible measures in the circumstances to prevent or reduce possible losses, including measures to save and preserve the insured property.

Taking such measures, the policyholder (insured) must follow the instructions of the insurer, if they are reported to the policyholder (insured).

2. Expenses incurred by the policyholder (insured) in order to prevent or reduce losses shall be reimbursed by the insurer if such expenses were necessary or incurred to comply with the instructions of the insurer, even if the relevant measures were unsuccessful.

Such expenses shall be reimbursed at actual amount, but so that the total amount of insurance payments and reimbursement of expenses did not exceed the insured amount under the insurance contract, if the expenses occurred in the result of the execution of the insured (the insured) instructions of the insurer, they shall be compensated in full, regardless of the insured amount.

3. The insurer shall be exempted from making the insurance indemnity in respect of those losses that arose due to the fact that the policyholder (insured) deliberately did not take reasonable and accessible measures to reduce possible losses.

**Footnote. Article 829 as amended by Laws of the Republic of Kazakhstan dated December 18, 2000. N 128; dated July 1, 2003 N 445**

### **Article 830. Insurance privilege**

1. The Insurance privilege includes information on the amount of the sum insured, the redemption amount and the paid insurance premiums, other terms and conditions of the insurance contract (reinsurance) relating to the identity of the insured, the insured or the beneficiary. Data on the concluded insurance (reinsurance) contracts of the insurance (reinsurance) organization which is in the course of liquidation do not belong to the insurance privilege.

1-1. Legislative acts on insurance and insurance activities may provide for other conditions and the procedure for disclosure of information constituting the insurance privilege

2. Professional participants of the insurance market, the insurance agent shall not be entitled to disclose the information received by them as a result of their professional activities, constituting the insurance privilege, except for cases of providing information to another professional participant of the insurance market or to the insurance agent, related to the conclusion of reinsurance contracts or relations on co-insurance, as well as provided for in Paragraphs 4, 4-1, 5 and 6 of this Article.

3. Officials, employees of the insurance (reinsurance) company, insurance holding companies-residents of the Republic of Kazakhstan, insurance brokers, insurance agents, insurance agents and other persons who, by virtue of their official duties, have access to information constituting the insurance privilege, for their disclosure shall be liable under the Laws of the Republic of Kazakhstan.

The exchange of information, including information constituting an insurance secret, between the National Bank of the Republic of Kazakhstan and the authorized authority for

regulation, control and supervision of the financial market and financial organizations shall not be disclosure of insurance secrets.

It shall not be disclosure of insurance secrets that an official of the state authority or a person performing managerial functions in an organization presents documents and information containing an insurance secret as supporting documents and materials when sending a criminal prosecution message to the criminal prosecution authority.

4. The insurance privilege may be disclosed to a third party on the basis of the written consent of the policyholder (insured, beneficiary).

4-1. The insurance privilege can be disclosed to the insurance ombudsman on the appeals of individuals and legal entities under consideration for settlement of disputes arising from insurance contracts.

5. Information containing the insurance privilege is provided:

1) to representative of the policyholder ( beneficiary) - on the basis of a notarized power of attorney;

2) to agency of inquiry and preliminary investigation - on the criminal cases which are in its production;

3) to the court-on the cases in its proceedings on the basis of a ruling or a court order;

4) to the prosecutor-on the basis of the resolution on production of check within its competence on the materials which are at it under consideration;

4-1) to the authorized body for financial monitoring-for the purposes and procedure provided for by the Law of the Republic of Kazakhstan "On combating legalization ( laundering) of proceeds from crime and financing of terrorism";

4-2) State Corporation "Government for citizens" for the purposes provided by Paragraph 4 of Article 59 of the Law of the Republic of Kazakhstan "On Pension Provision in the Republic of Kazakhstan";

4-3) to the authorized state body which is carrying out the management in the field of ensuring receipts of taxes and other obligatory payments to the budget according to the tax legislation of the Republic of Kazakhstan concerning:

insurance contracts concluded under auditing individuals;

contracts of accumulative insurance, the beneficiaries of which are non-resident individuals;

contracts of accumulative insurance, beneficiaries of which are individuals specified in the request of the authorized body of a foreign state, sent in accordance with the international treaty of the Republic of Kazakhstan;

4-4) to the national security agencies of the Republic of Kazakhstan in respect of compulsory insurance agreement of civil liability of motor vehicle owners - for the purposes and procedure provided by the Law of the Republic of Kazakhstan "On national security agencies of the Republic of Kazakhstan", and in respect of other insurance agreements-with the approval of the prosecutor;

4-5) to the State Security Service of the Republic of Kazakhstan with the sanction of the prosecutor for the purpose of prevention, opening and suppression of intelligence and (or) subversive actions;

5) the authorized authority for regulation, control and supervision of the financial market and financial organizations and the National Bank of the Republic of Kazakhstan - on issues related to the supervision of insurance activities;

5-1) to insurance holding company -resident of the Republic of Kazakhstan - for the purposes of calculation of prudential standards of the insurance group, as well as the formation of risk management and internal control of the insurance group;

6) other persons in accordance with the legislative acts of the Republic of Kazakhstan on insurance and insurance activities.

Information constituting an insurance secret may be provided by the authorized authority for regulation, control and supervision of the financial market and financial organizations to the audit organization in accordance with part five of Paragraph 13 of Article 20 of the Law of the Republic of Kazakhstan "On Insurance Activity".

6. Information containing the insurance privilege in case of death of the policyholder, the insured, the beneficiary shall be issued:

1) to the lawful heirs;

2) to courts and notaries on the hereditary cases which are in their production on the basis of determination, the resolution of court or the written request of the notary certified by its seal. A copy of the death certificate of the policyholder must be attached to the notary's written request;

3) foreign consular offices - in their proceedings on inheritance.

7. General terms and conditions of insurance activities, the list of offered insurance services, insurance rates, terms of insurance, as well as other basic terms and conditions of the insurance (reinsurance) agreement are public information and can not be subject to the insurance privilege and commercial secrets.

8. In case of disclosure by the insurer of information constituting the insurance privilege, the policyholder (insured, beneficiary) has the right to demand compensation for damages, and in appropriate cases - compensation for moral damage.

**Footnote. Article 830 as amended by Law of the Republic of Kazakhstan dated December 18, 2000 No. 128; as amended by laws of the Republic of Kazakhstan dated July 10, 2003 N 483 ( effective from January 1, 2004); dated February 27, 2004 N 527 ( effective from April 1 , 2004); dated February 20, 2006 N 128 ( procedure for enforcement see Art. 2); dated August 28, 2009 N 192-IV ( effective from March 8, 2010); dated July 15, 2010 No. 338-IV ( procedure for enforcement see Art. 2); dated June 21, 2012 No. 19-V( effective upon expiry of ten calendar days after its first official publication); dated June 10, 2014 No. 206-V ( effective upon expiry of ten calendar days after the date of its first official publication); dated November 17, 2015 No. 408-V ( effective from March 1, 2016); dated November 18, 2015**

No. 412-V ( effective from January 1, 2017); dated November 24, 2015 No. 422-V( effective from January 1, 2016); dated April 6, 2016 No. 483-V ( effective upon expiry of ten calendar days after the date of its first official publication); dated December 28, 2016 No. 36-VI ( effective upon expiry of two months after the date of its first official publication); dated July 2, 2018 No.166-VI ( effective upon expiry of ten calendar days after the date of its first official publication); No. 168-VI dated 02.07.2018 (shall be enforced dated 01.01.2019); dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).

### **Article 831. Obligations of the Policyholder**

1. The Policyholder is obliged:
  - 1) pay insurance premiums in the amount, procedure and terms, established by the insurance contract;
  - 2) inform the insurer about the state of the insured risk;
  - 3) notify the insurer on the occurrence of insured event;
  - 4) take measures to reduce losses from an insured event (Paragraph 1 of Article 829 of this Code);
  - 5) ensure the transfer to the insurer of the right of claim to the person responsible for the occurrence of the insured event (Article 840 of this Code).

2. The insurance contract may also provide for other obligations of the policyholder.

**Footnote. Article 831 as amended by Law of the Republic of Kazakhstan dated December 18, 2000 No. 128.**

### **Article 832. Information provided by the policyholder when entering into the contract**

1. When entering into the contract, the policyholder is obliged to inform the insurer of the circumstances known to the policyholder, which are essential for determining the probability of occurrence of the insured event and the amount of possible losses from its occurrence ( insurance risk), if these circumstances are not known and should not be known to the insurer.

The circumstances specified in the insurance rules developed by the insurer or in the written request of the insurer sent to the policyholder during the conclusion of the contract are deemed to be essential.

When entering into the contract of compulsory insurance the circumstances established by separate legislative acts of the Republic of Kazakhstan regulating compulsory types of insurance are recognized as essential.

2. The insurance contract may not be concluded in the absence of answers of the policyholder to the questions specified in the written request of the insurer in respect of essential circumstances.

If the insurance contract is concluded in the absence of answers of the policyholder to any questions of the insurer, the latter may not subsequently demand the termination of the

contract or its invalidation on the grounds that the relevant circumstances have not been reported by the policyholder.

3. If after the conclusion of the contract it is established that the policyholder has informed the insurer of knowingly false information about the circumstances specified in Paragraph 1 of this Article, the insurer shall have the right to demand the recognition of the contract as invalid and the application of the consequences provided for in Parts 2 and 3 of Paragraph 1 of Article 844 of this Code.

The insurer may not demand that the contract be declared invalid if the circumstances about which the policyholder has not mentioned have already disappeared.

**Footnote. Article 832 as amended by Law of the Republic of Kazakhstan dated July 2, 2018 No. 166-VI ( effective upon the expiry of ten calendar days after its first official publication).**

### **Article 833. Assessment of insurance risk and caused damage**

1. When entering into the property insurance contract, the insurer has the right to inspect and evaluate the insured property, and, if necessary, to appoint an examination in order to establish its actual value.

The assessment of the insured property and damage caused by the insurer is an integral part of the insurance and does not require additional licensing.

2. When entering into the contract of personal insurance, the insurer shall be entitled to carry out an examination of the insured person to assess the actual state of his / her health.

3. The insurer's assessment of the insurance risk on the basis of this article is not mandatory for the policyholder, who has the right to prove otherwise.

4. The amount of damage caused as a result of an insured event at the request of the policyholder or his representative shall be determined by the insurer. If necessary, the assessment of the amount of damage is carried out by the adjuster (independent expert). In case of disagreement with the results of the assessment of the harm caused, the parties have the right to prove otherwise.

5. When compulsory insurance procedures and arrangements for assessing the size of the caused damage resulting from the occurrence of the insured event may be established by the legislative acts of the Republic of Kazakhstan.

**Footnote. Article 833 as amended by Laws of the Republic of Kazakhstan dated July 1, 2003 No. 445 ; dated May 7, 2007 No. 244; dated July 2, 2018 No.166-VI ( effective upon expiry of ten calendar days after the date of its first official publication).**

### **Article 834. Consequences of increased insurance risk during the contract period**

1. During the validity period of the property insurance contract, the policyholder (insured) is obliged to immediately inform the insurer of significant changes in the circumstances

reported to the insurer at the conclusion of the contract, if these changes can significantly affect the increase in the insurance risk.

Significant in any case are the amendments stipulated in the insurance contract.

2. The insurer, notified of the circumstances leading to an increase in the insurance risk, has the right to demand an amendment in the terms of the contract or co-payment of insurance premium in proportion to the increase in the risk.

If the policyholder or the insured objects to the amendment of the terms and conditions of the insurance contract or co-payment of the insurance premium, the insurer shall be entitled to demand the termination of the contract in accordance with the rules provided for in Chapter 24 of this Code.

3. If the policyholder or the insured fails to fulfill the obligation provided for in Paragraph 1 of this Article, the insurer shall be entitled to demand termination of the contract and compensation for losses caused by termination of the contract.

4. The insurer shall not be entitled to demand termination of the contract if the circumstances entailing an increase in the insurance risk have already revolted.

5. In case of personal insurance, the consequences of amendments in the insurance risk during the validity period of the contract specified in Paragraphs 2 and 3 of this Article may occur if they are expressly provided for in the contract.

**Footnote. Article 834 as amended by Law of the Republic of Kazakhstan dated December 18, 2000. N 128.**

#### **Article 835. Notification of the insurer on the occurrence of an insured event**

1. The policyholder, after becoming aware of the occurrence of an insured event, is obliged to immediately notify the insurer or its representative of its occurrence. If the contract or legislative act of the Republic of Kazakhstan provides for the period and (or) the method of notification, it shall be made within the stipulated period and specified in the contract or legislative act of the Republic of Kazakhstan.

If the policyholder is not insured, such obligation shall be borne by the insured.

If the death of the insured is an insured event during personal insurance, the insurer shall be obliged to notify about the insured event on the policyholder, and if he / she was insured at the same time - on the beneficiary. In this case, the period of notification of the insurer established by the contract may not be less than thirty days.

2. The beneficiary has the right to notify the insurer of the occurrence of an insured event in all circumstances, regardless of whether the policyholder or the insured has done so or not.

3. Failure to notify the insurer of the occurrence of an insured event gives him the right to refuse the insurance payment, if it is not proved that the insurer has known about the occurrence of the insured event in a timely manner or the absence of information from the insurer about this could not affect his obligation to make the insurance payment.

4. Failure to notify or untimely notification of the insurer on the occurrence of an insured event shall not be a ground for refusal to pay the insurance indemnity if it is caused by reasons beyond the control of the policyholder or deemed valid by the insurance contract, and the relevant documents confirming this fact are submitted.

**Footnote. Article 835 as amended by Laws of the Republic of Kazakhstan dated December 18, 2000 No.128; dated July 1, 2003 No. 445; dated July 2, 2018 No. 166-VI (effective upon expiry of ten calendar days after the date of its first official publication).**

#### **Article 836. Change of the policyholder**

1. In the event of the death of the policyholder who has concluded the property insurance contract, the rights and obligations of the policyholder shall be transferred to the person who has accepted the property by inheritance. In other cases of transfer of ownership (or other proprietary rights), the rights and obligations of the policyholder shall be transferred to the new owner (or owner of other proprietary rights) with the consent of the insurer, unless otherwise provided by the contract or legislative acts.

2. In the event of the death of the policyholder who has concluded a personal insurance contract in favor of the insured, the rights and obligations determined by this contract shall be transferred to the insured with his / her consent. If it is impossible for the insured to perform his / her obligations under the insurance contract, his / her rights and obligations may be transferred to the persons carrying out obligations to protect his / her rights and legitimate interests in accordance with legislative acts.

3. In case of reorganization of the policyholder, who is a legal entity, during the validity period of the insurance contract his rights and obligations under this contract shall be transferred with the consent of the insurer to the relevant legal successor in the manner determined by this Code.

#### **Article 837. Change of the insured**

1. In the event that the liability of a person other than the policyholder is insured under the contract of responsibility for causing harm, the latter shall have the right, unless otherwise provided in the insurance contract, to replace that person with another person at any time before the occurrence of the insured event by notifying the insurer in writing form.

2. A non-policyholder insured named in the personal insurance and property insurance contract may be replaced by another only with the consent of the insured (except for group personal insurance) and the insurer.

3. If the insurance of a third party follows from the requirements of the legislative acts of the Republic of Kazakhstan, the replacement of the insured shall be carried out in accordance with the procedure established by the legislative acts of the Republic of Kazakhstan and the contract based on them.



Footnote. Article 837 as amended by Law of the Republic of Kazakhstan dated December 18, 2000 No. 128; dated July 2, 2018 No. 166-VI ( effective upon the expiry of ten calendar days after the date of its first official publication).

#### **Article 838. Change of beneficiary**

1. The policyholder has the right to replace the non-insured beneficiary named in the insurance contract with another person prior to the occurrence of the insured event by notifying the insurer in writing form.

2. The beneficiary may not be replaced by another person after he / she has fulfilled certain obligations under the insurance contract arising from his / her agreement with the policyholder or has submitted to the insurer a claim for the insurance payment.

3. Replacement of the beneficiary who is insured shall be made in the manner prescribed by Article 837 of this Code.

Footnote. Article 808 as amended by Law of the Republic of Kazakhstan dated December 18, 2000. N 128.

#### **Article 839. Grounds for exemption of the insurer from the insurance payment**

1. The insurer shall have the right to refuse to the policyholder the insurance benefit in whole or in part if the insured event occurred as a consequence of:

1) deliberate actions of the policyholder, the insured and (or) the beneficiary aimed at the occurrence of an insured event or contributing to its occurrence, except for actions committed in a state of necessary defense and extreme necessity;

2) actions of the policyholder, the insured and (or) the beneficiary, recognized in accordance with the legislative acts of the Republic of Kazakhstan as intentional criminal or administrative offenses, which are in causal connection with the insured event.

The insurer shall not be exempted from the insurance payment under civil liability insurance contracts if the insured event is caused by the fault of the person whose liability is the object of insurance.

The insurer shall not be exempt from the payment of the insurance benefit, which under the personal insurance contract is payable in the event of the death of the insured, if the death was due to suicide and by that time the insurance contract was in force for at least two years.

2. Since the voluntary insurance agreement and legislative acts of the Republic of Kazakhstan do not provide otherwise, the insurer shall be released from the insurance payment, if the insured event occurred due to:

(1) effects of a nuclear explosion, radiation or radioactive contamination;

2) hostilities;

3) civil war, civil commotion of all kinds, mass riots or strikes.

3. Since the property insurance contract does not provide otherwise, the insurer shall be exempted from the insurance payment for losses arising from the condemnation, confiscation, requisition, seizure or destruction of the insured property by the Order of State bodies.

4. The grounds for the insurer's refusal to effect the insurance payment may also be as follows:

1) communication by the policyholder to the insurer of knowingly false information about the object of insurance, the insured risk, the insured event and its consequences;

2) deliberate failure of the policyholder to take measures to reduce losses from the insured event (Article 829 of this Code);

3) receipt by the policyholder of appropriate compensation for loss on property insurance from the person guilty of causing the loss;

4) preventing the insurer from investigating the circumstances of the insured event and determining the amount of the loss caused by the insured;

5) failure to notify the insurer of an insured event (Article 835 of this Code);

6) refusal of the policyholder from his / her right of claim to the person responsible for the occurrence of the insured event, as well as refusal to transfer to the insurer the documents necessary for the transition to the insurer of the right of claim (Article 840 of this Code). If the insurance recovery has already been paid, the insurer shall be entitled to demand its return in whole or in part;

7) other cases provided for by legislative acts.

5. Release of the insurer from insurance liability to the policyholder on the grounds of his / her unlawful actions provided for in this article shall at the same time release the insurer from the insurance payment to the insured or the beneficiary.

6. The terms of the insurance contract may provide for other grounds for refusal of insurance payment, if it is not contrary to the legislation.

7. The decision to refuse the insurance payment shall be made by the insurer and shall be communicated to the policyholder in writing form with a reasoned justification of the reasons for refusal.

8. Failure of the insurer to make the insurance payment may be appealed by the policyholder to the court.

**Footnote. Article 839 as amended by laws of the Republic of Kazakhstan dated December 12, 2000 No. 128; dated February 20, 2006 No.128 (procedure for enforcement see Art. 2); dated July 3, 2014 No. 227-IV ( effective from January 1, 2015); dated July 2, 2018 No. 166-IV ( effective upon expiry of ten calendar days after the date of its first official publication).**

#### **Article 840. Transition to the insurer of the policyholder's rights to compensation of losses ( subrogation)**

1. If the property insurance contract provides otherwise, the insurer carries out insurance payment passes within the paid sum the right of claim which the policyholder (the insured)

has the person responsible for losses compensated as the result of insurance. However, the condition of the contract excluding the transfer to the insurer of the right of claim to the person who intentionally caused losses is void.

2. The right of claim transferred to the insurer shall be exercised in compliance with the rules governing the relationship between the policyholder (insured) and the person responsible for losses.

3. The policyholder (insured) shall, upon receipt of the insurance recovery, submit to the insurer all documents and evidence and inform him / her of all information necessary for the insurer to exercise the right of claim transferred to him / her.

4. If the policyholder (insured) has waived his / her right of claim against the person responsible for the losses compensated by the insurer, or the exercise of this right has become impossible due to the fault of the policyholder (insured), the insurer shall be released from the insurance payment in full or in the relevant part and shall be entitled to demand the return of the overpayments.

**Footnote. Article 840 as amended by Law of the Republic of Kazakhstan dated December 18, 2000 N 128; dated February 27, 2017 No. 49-VI ( effective upon the expiry of ten calendar days after the date of its first official publication).**

#### **Article 841. Early termination of insurance contract**

1. In addition to the general grounds for termination of obligations under this Code, the insurance contract shall be terminated prematurely in the following cases:

1) when the object of insurance ceased to exist;

2) death of the insured who is not the policyholder, when his replacement has not occurred (Paragraph 8 of Article 815 of this Code);

3) alienation by the policyholder of the object of property insurance, if the insurer objects to the replacement of the policyholder, and the agreement or legislative acts of the Republic of Kazakhstan do not provide otherwise (Paragraph 1 of Article 836 of this Code);

4) termination in accordance with the established procedure of entrepreneurial activity by the policyholder who insured his / her entrepreneurial risk or legal liability related to this activity;

5) when the risk of the insured event has disappeared and the existence of the insured risk has ceased due to circumstances other than the insured event;

6) entry into legal force of the court order on compulsory liquidation (on compulsory termination of activities) of the insurer, adoption of a decision by the authorized state body on revocation of the license of a branch of a non-resident insurance (reinsurance) company of the Republic of Kazakhstan, except for the cases provided for by the Law of the Republic of Kazakhstan "On insurance activities";

**7) excluded by Law of Republic of Kazakhstan dated July 15, 2010 No. 338-IV ( procedure for enforcement see Art. 2);**

8) amendments in the conditions and information included in the insurance policy issued by the insurer in the manner prescribed by legislative acts of the Republic of Kazakhstan;

9) in cases provided for by the Law of the Republic of Kazakhstan "On insurance activities".

In these cases, the contract shall be deemed terminated from the moment of occurrence of the circumstances provided as a basis for termination of the contract, and the interested party shall immediately notify the other party.

1-1. If the policyholder under the contract of accumulative insurance terminates it unilaterally in the period from the fourteenth to the thirtieth day from the date of conclusion of the contract, the insurer is obliged to return to the policyholder the received amount of insurance premiums less expenses not exceeding twenty percent of the received amount of insurance premiums incurred by the insurer at the conclusion of the contract of accumulative insurance.

2. The policyholder has the right to cancel the insurance contract at any time.

**Footnote. Article 841 as amended by Laws of the Republic of Kazakhstan dated July 10, 2003 N 483 (effective from January 1, 2004), dated February 20, 2006 N 128 (procedure for enforcement see Art. 2); dated December 30, 2009 No. 234-IV; dated July 15, 2010 No. 338-IV (procedure for enforcement see Art. 2); dated July 2, 2018 No. 166-IV ( effective upon expiry of ten calendar days after the date of its first official publication); dated 02.01.2021 No . 399-VI (shall be enforced from 16.12.2020).**

#### **Article 842. Consequences of early termination of insurance contract**

1. In case of early termination of the non-accumulative insurance contract due to the circumstances provided for in Paragraph 1 of Article 841 of this Code, the insurer shall be entitled to a part of the insurance premium in proportion to the time during which the insurance was valid. Return of insurance premiums (payables) upon liquidation of the insurer shall be carried out in accordance with the order of satisfaction of creditors' claims established by the legislation of the Republic of Kazakhstan on insurance and insurance activities.

In the event of early termination of the accumulative insurance contract in the cases provided for by subparagraph 6) of paragraph 1 of Article 841 of this Code and paragraph 3 of this Article, only the redemption sum shall be refunded in the amount established by the contract and in accordance with the order of satisfaction of creditors' claims established by the legislation of the Republic of Kazakhstan on insurance and insurance activities.

2. In case of refusal of the policyholder from the contract (Paragraph 2 of Article 841 of this Code), if it is not related to the circumstances specified in Paragraphs 1 and 1-1 of Article 841 of this Code, the insurance premium or insurance payables paid to the insurer shall not be refunded, unless otherwise provided by the contract.

3. In cases where the early termination of the insurance contract is caused by the failure to comply with its terms through the fault of the insurer, the latter is obliged to return to the policyholder the insurance premium paid by him or insurance payables in full.

**Footnote. Article 842 as amended by Law of the Republic of Kazakhstan dated July 15, 2010 No. 338-IV ( procedure for enforcement see Art. 2).**

#### **Article 843. Invalidity of insurance contract**

1. In addition to the general grounds for invalidity of transactions provided for in this Code, the insurance contract shall be deemed invalid in the following cases:

1) the object of insurance shall be property subject to confiscation on the basis of a court order that has entered into legal force, or property obtained by criminal means or which is the subject of a criminal offence;

2) an event devoid of the features provided for in Paragraph 3 of Article 817 of this Code shall be provided as an insured event;

3) the terms and conditions of the contract exclude the possibility of making an insurance payment in the event of an insured event;

4) at the conclusion of the contract, the policyholder deliberately pursued the purpose of obtaining an unlawful benefit, including through the conclusion of the contract after the occurrence of an insured event;

5) the policyholder (insured, beneficiary) has no insurable interest;

6) there is no agreement between the parties on the essential terms of the contract provided for in Paragraph 1 of Article 826 of this Code.

2. The insurance contract is void in the following cases:

1) if the object of insurance (reinsurance) are illegal property interests (Paragraph 2 of Article 807, Part three of Paragraph 1 of Article 824 of this Code);

2) the lack of consent of the insured in those cases where consent is required;

3) non-compliance with the written form of the contract (Paragraph 3 of Article 825 of this Code);

4) there is no object of insurance (reinsurance).

3. Legislative acts of the Republic of Kazakhstan may provide for other grounds for invalidation of the contract in relation to certain types of insurance.

**Footnote. Article 843 as amended by laws of the Republic of Kazakhstan dated February 20, 2006 No. 128 ( procedure for enforcement see Art. 2); dated July 3, 2014 No. 227-V ( effective from January 1, 2015); dated February 27, 2017 No. 49-VI ( effective upon expiry of ten calendar days after the day of its first official publication); dated July 2, 2018 No. 166-VI ( effective upon expiry of ten calendar days after the day of its first official publication).**

#### **Article 844. Consequences of invalidation of the insurance contract**

1. In case of invalidation of the insurance contract, the insurer shall return to the policyholder the insurance premium or insurance payables received from him, and the policyholder (beneficiary) shall return to the insurer the insurance payment received from him

If the contract is declared invalid on the grounds arising from the unlawful actions of the policyholder, about which the insurer at the time of conclusion of the contract, as well as in the process of its execution, did not know and should not have known, the insurer shall return to the policyholder the insurance premium or insurance payables for the unexpired term of the contract, except the costs incurred, and if the insurance payment was made - has the right to demand the return of the sum paid.

The same consequences occur in case of invalidation of the insurance contract for reasons that give grounds to the insurer to refuse the insurance payment (Article 839 of this Code).

2. If the insurance contract is aimed at achieving a criminal purpose, the unlawfulness of which is established by a court verdict (resolution), then the consequences provided for in Paragraphs 5 – 7 of Article 157-1 of this Code shall occur.

**Footnote. Article 840 as amended by Law of the Republic of Kazakhstan dated December 18, 2000 N 128; dated February 27, 2017 No. 49-VI ( effective upon the expiry of ten calendar days after the date of its first official publication).**

#### **Article 845. Mutual insurance**

1. Citizens and legal entities may insure their property interests specified in Paragraph 1 of Article 807 of this Code on a mutual basis by combining in mutual insurance companies the necessary funds.

2. Mutual insurance companies insure other property interests of their members and are non-profit organizations.

The peculiarities of mutual insurance, the legal status of mutual insurance companies and the conditions of their activities are determined in accordance with this Code and the legislative acts on mutual insurance.

3. Mutual insurance companies insure the property interests of their members on the basis of membership and insurance contracts.

4. Implementation of compulsory insurance by mutual insurance is allowed in the cases provided by the legislative acts on mutual insurance.

**5. (Excluded - dated February 20, 2006 N 128 (procedure for enforcement see Art. 2)).**

**Footnote. Article 845 as amended by Law of the Republic of Kazakhstan dated February 20, 2006 N 128 (procedure for enforcement see Art. 2); dated July 5, 2006 N164 ( procedure for enforcement see Art. 2).**

#### **Article 845-1. Islamic (Takaful) insurance**

1. The Islamic insurance contract is an insurance contract (Article 803 of this Code), concluded taking into account the features established by the legislation of the Republic of Kazakhstan on insurance and insurance activities.

2. The insurance premium paid by the policyholder under the Islamic insurance contract, as well as the income received as a result of the investment of insurance premiums, shall be transferred by the insurer to the Islamic insurance Fund formed by the insurer to make insurance payments to the policyholders (beneficiaries) under the Islamic insurance contracts.

3. Insurance premiums received by the insurer under the Islamic insurance contract, as well as other property constituting the Islamic insurance Fund, do not belong to the insurer on the right of ownership.

4. The insurer under the Islamic insurance contract has the right to receive remuneration for the management of the Islamic insurance Fund at the expense of the Islamic insurance Fund in accordance with the requirements established by the legislation of the Republic of Kazakhstan on insurance and insurance activities, and the concluded Islamic insurance contract.

5. Features of Islamic insurance, formation, accounting, use and distribution of the Islamic insurance Fund, the legal status of insurers engaged in Islamic insurance, and the conditions of their activities are determined in accordance with this Code and the legislative acts of the Republic of Kazakhstan on insurance and insurance activities.

**Footnote. Chapter 40 is amended by Article 845-1 in accordance with Law of the Republic of Kazakhstan dated April 27, 2015 No. 311-V ( effective upon expiry of ten calendar days after the date of its first official publication).**

## **Chapter 41. Appointment**

### **Article 846. Appointment agreement**

1. Under the appointment agreement, one party (appointee) undertakes to perform certain legal actions on behalf and at the expense of the other party (appointor). Under the transaction made by the appointee, the rights and obligations arise directly from the appointor.

2. The appointment agreement shall be concluded in writing form.

### **Article 847. Execution of the appointment in accordance with the instructions of the appointor**

1. The appointee shall execute the appointment given to him in accordance with the instructions of the appointor. The instructions of the appointor shall be specific, lawful and enforceable.

2. The appointee shall have the right to withdraw from the instructions of the appointor if the circumstances of the case require it in the interests of the appointor and the appointee

could not previously request the appointor or did not receive a timely response to his request. In this case, the appointee is obliged to notify the appointor of the deviations as soon as the notification is possible.

3. By agreement of the parties, the commercial representative may be relieved of the obligation specified in Paragraph 2 of this Article.

#### **Article 848. Obligations of appointee**

The appointee is obliged:

- 1) personally execute the appointment given to him;
- 2) to inform the appointor on his request all information about the execution of the appointment;
- 3) to convey to the appointor without delay everything received under the transaction;
- 4) upon execution of the appointment without delay to return the power of attorney to the appointor, the validity of which has not expired, and submit a report with the application of supporting documents, if required by the nature of the appointment;
- 5) perform other duties stipulated by the legislative acts of the Republic of Kazakhstan.

**Footnote. Article 848 as amended by Law of the Republic of Kazakhstan dated 15.07.2010 No. 338-IV (procedure for enforcement see Art. 2).**

#### **Article 849. Obligations of appointor**

1. The appointor is obliged, unless otherwise provided by the agreement:
  - 1) provide the appointee with the means necessary for the execution of the appointment;
  - 2) to reimburse the appointee for the incurred expenses that were necessary for the execution of the appointment.
2. The appointor is obliged to accept without delay all executed by the appointee in accordance with the agreement.
3. The appointor is obliged to pay remuneration to the appointee upon execution of the appointment in accordance with the Rules of the Article 850 of this Code.
4. Legislative acts of the Republic of Kazakhstan may provide for other obligations of the appointor.

**Footnote. Article 849 as amended by Law of the Republic of Kazakhstan dated 15.07.2010 No. 338-IV (procedure for enforcement see Art. 2).**

#### **Article 850. Remuneration in the appointment agreement**

1. The appointor is obliged to pay remuneration to the appointee, if it is provided by legislative acts or agreement.



If the appointment agreement is related to the performance of business activities by both parties or one of them, the appointor is obliged to pay a remuneration to the appointee, unless the agreement provides otherwise.

2. If the agreement or legal acts contain an indication of the compensation for the performance of the agreement, but do not specify the amount of remuneration, it is determined taking into account the usually accepted prices for services of this kind.

3. The remuneration shall also be payable when the appointee proves that he / she has properly performed all the required actions, but the appointment has not been executed through no fault of his / her.

#### **Article 851. Appointment of a subagent**

1. The appointee has the right to transfer the execution of the appointment to another person (Substitute), if it is provided by the agreement, or if the appointee is forced to do so in order to protect the interests of the appointor.

2. The appointee who has entrusted the execution to another person shall immediately notify the appointor. The appointor has the right to withdraw the substitute elected by the appointee, except when such substitute was named in the agreement.

3. If the substitute appointee is named in the agreement, the appointee is not responsible for the conduct of affairs of his substitute.

4. If conduct of affairs by the substitute is provided in the agreement, but the substitute in it is not named, the appointee is not responsible for guilty actions of the substitute.

5. If the conduct of affairs of the substitute appointee in the contract is not provided, the appointee is responsible for any actions of his substitute.

#### **Article 852. Termination of appointment agreement**

1. The appointment agreement shall be terminated, along with the general grounds for termination of obligations, due to:

- 1) cancellation of the appointment by the appointor;
- 2) refusal of the appointee
- 3) the death of the appointor or the appointee, acknowledgement someone from among them as incapacitated, partially incapacitated or missing person.

2. If the appointee did not know and should not have known about the termination of the appointment agreement, his actions committed at the direction of the appointor, oblige the appointor (his successor) in respect of third parties and the appointee.

3. Party withdrawing from the agreement with an appointee acting as an entrepreneur must notify the other party of the termination of the agreement within one month, if a longer period is not provided for by the agreement.

#### **Article 853. Consequences of termination of the appointment agreement**

1. If the appointment agreement is terminated before the appointment is executed by the appointee in full, the appointor is obliged to compensate the appointee for the costs incurred in the execution of the appointment, and when the appointee was due remuneration, also pay him a remuneration commensurate with the work performed by him. This rule shall not apply to the execution of the appointment by the appointee after he has learned or should have known about the termination of the appointment.

2. Cancellation of the appointment by the appointor shall not be the basis for compensation of losses caused to the appointee by termination of the agreement, except for the cases of termination of the agreement with the appointee acting as an entrepreneur.

3. The refusal of the appointee to execute the appointment of the appointor shall not be the basis for compensation of losses caused to the appointor by the termination of the agreement, except for cases of refusal of the appointee in conditions when the appointor is deprived of the opportunity to otherwise protect his interests, as well as cases of termination of the agreement by the appointee acting as an entrepreneur.

#### **Article 854. Legal succession in the appointment agreement**

1. In the event of the death of the appointee, his heirs or other persons entrusted with the preservation of the hereditary property are obliged to notify the appointor of the termination of the contract of assignment and to take measures necessary to protect the property of the appointor, in particular, to keep things and documents of the appointor, and then transfer them to him.

The same obligation lies with the liquidator of the legal entity that is the appointee.

2. In case of reorganization of a legal entity acting as a representative, the appointor shall be immediately notified thereof in accordance with Article 48 of this Code. In this case, the rights and obligations of such legal entity shall be transferred to its successor, if the appointor does not inform about his / her withdrawal from the agreement within a reasonable period of time.

#### **Chapter 42. Actions in another's interest without the appointment**

##### **Article 855. Affirmative condition in someone else's interest**

1. Actions without appointment, other instruction or promised in advance consent of the person concerned in order to prevent harm to his personality or property, the performance of his obligation or in his other not unlawful interests (actions in another's interest) must be performed proceeding from obvious benefit or use and actual or probable intentions of the interested person, with the necessary circumstances of the case, diligence and prudence.

2. The rules provided for in this Chapter shall not apply to acts in the interest of other persons committed by public authorities for which such acts are one of the purposes of their activities.

#### **Article 856. Notification of the interested person about actions in his / her interest**

1. A person acting in someone else's interest shall, at the earliest opportunity, inform the person concerned and wait for a reasonable time for a decision on approval or disapproval of the action taken, unless the expectation would cause serious damage to the person concerned.

2. It is not required to specifically inform the person concerned about the actions in his interest, if these actions are taken in his presence.

#### **Article 857. Consequences of approval by the interested person of actions in his / her interest**

If a person in whose interest actions are taken without his / her appointment, approves these actions, the rules on the appointment agreement or other agreement corresponding to the nature of the actions taken shall apply to the relations of the parties in the future, even if the approval was oral.

#### **Article 858. Consequences of disapproval by the interested person of actions in his / her interest**

1. Actions in someone else's interest, committed after the person who commits them, it became known that they are not approved by the person concerned, do not entail for the latter obligations neither in respect of the person who committed these actions, nor in respect of third parties.

2. Actions to prevent danger to the life of a person in danger are also permitted against the will of that person, and the performance of the duty to maintain someone is against the will of that person.

#### **Article 859. Compensation of damages to a person acting in someone else's interest**

1. The necessary expenses and other actual damage incurred by a person acting in another's interest in accordance with the rules provided for in this Chapter shall be reimbursed by the interested person, except for expenses that are caused by the actions specified in Paragraph 1 of Article 858 of this Code.

The right to compensation of necessary expenses and other real damage remains in the case when actions in another's interest did not lead to the expected result. However, in case of prevention of damage to the property of another person, the amount of compensation shall not exceed the value of the property.

2. Expenses and other losses of a person acting in someone else's interest incurred by him in connection with actions taken after obtaining approval from the interested person (Article 857 of this Code) shall be reimbursed under the rules of the agreement of the appropriate type

#### **Article 860. Remuneration for actions in someone else's interest**

A person whose actions in someone else's interest have led to a positive result for the interested person has the right to receive remuneration, if such right is provided for by legislative acts, an agreement with the interested person or usual and customary business practices.

#### **Article 861. The consequences of the transaction in someone else's interest**

The obligations arising from a transaction entered into in someone else's interest pass to the person in whose interest it is made, subject to his approval of the transaction and if the other party does not object to such a transition or at the conclusion of the transaction knew or should have known that the transaction is concluded in someone else's interest.

In the transfer of obligations under the transaction to the person in whose interests it was concluded, the latter should be transferred and the rights under this transaction.

#### **Article 862. Unjust enrichment owing to actions in another's interest**

If the actions not directly aimed at ensuring the interests of another person, including in the case when the person who committed them mistakenly assumed that he was acting in his own interest, led to the unjust enrichment of another person, the Rules provided for in Chapter 48 of this Code shall apply.

#### **Article 863. Compensation for damage caused by actions in someone else's interest**

Relations on compensation for damage caused by actions in someone else's interest, the interested person or third parties shall be governed by the Rules provided for in Chapter 47 of this Code.

#### **Article 864. Report of a person acting in someone else's interest**

A person acting in someone else's interest is obliged to submit to the person in whose interests the actions were carried out, a report indicating the income and expenses incurred and other losses.

### **Chapter 43. Commission**

#### **Article 865. Commission Agreement**

1. Under the Commission agreement, one party (the Commission agent) undertakes, on behalf of the other party (the Committent), to make one or more transactions on its own behalf at the expense of the Committent for a fee.

2. The Commission Agreement shall be concluded in writing form.

#### **Article 866. Commission remuneration**

The Committent is obliged to pay remuneration to the Commission agent, and in the case provided for in Paragraph 2 of Article 868 of this Chapter, also additional remuneration in the amount established in the agreement. If the agreement does not provide for this amount and cannot be determined on the basis of its terms, the amount of remuneration shall be established in accordance with Paragraph 3 of Article 385 of this Code.

If the Commission agreement has not been executed for reasons that depend on the Committent, the Commission agent retains the right to Commission remuneration, as well as to reimbursement of expenses incurred.

#### **Article 867. Rights and duties of the Commission agent on transaction with a third party**

1. Under the transaction made by the Commission agent with a third party, the Commission agent acquires the rights and becomes obliged, at least the Committent, was named in the transaction or entered into a direct relationship with the third party on the transaction.

The Commission agent is obliged to notify the Committent of the conclusion of the transaction with a third party.

2. At the request of the Committent, the Commission agent is obliged to transfer him the rights under such transaction by giving notice of the transfer of the third person with whom the transaction is made. The latter shall not be entitled to raise objections against the Committent's claims based on its claims against the Commission agent not arising from the transaction.

**Footnote. Article 867 as amended by Law of the Republic of Kazakhstan dated February 27, 2017 No. 49-VI ( effective upon expiry of ten calendar days after its first official publication).**

#### **Article 868. The execution of commission rogatory**

1. The Commission agent shall perform all duties and exercise all rights arising from the transaction entered into by him with a third party.

2. The Commission agent is obliged to execute the Committent's order in accordance with the instructions of the Committent, and in the absence of such instructions in the agreement - in accordance with the usual and customary business practices or other usually imposed requirements, on the most favorable terms for the Committent. If the Commission agent has made a transaction on terms more favorable than those specified by the Committent, the benefit is divided equally between the parties, unless otherwise provided by the agreement.

3. The Commission agent is not liable to the Committent for nonperformance by a third person of a transaction made with it at the expense of the Committent, except cases when the Commission agent has not displayed the necessary diligence in choosing this person or assumed a guarantee for execution transactions (del credere).

4. In case of violation by a third party of the transaction concluded with him by the Commission agent, the Commission agent is obliged to immediately inform the Committent, to collect and provide the necessary evidence.

5. The Committent, notified of the violation by a third party of the transaction concluded with him by the Commission agent, has the right to demand the transfer of the requirements of the Commission agent to this person for such a transaction.

#### **Article 869. Subcommission**

1. Unless otherwise provided by the agreement, the Commission agent has the right to conclude a subagency agreement with another person, remaining responsible for the actions of the subcommission agent before the Committent.

According to the subagency agreement, the commission agent shall acquire the rights and duties of the committent in relation to the subcommission agent, with the exception of the rights provided for in Paragraph 2 of Article 867 of this Code.

In cases where legislative acts allow the performance of any transactions only by specially authorized persons, the subagency agreement may be concluded only with such person.

2. Prior to the termination of the commission agreement the committent has not the right to enter into direct relations with the subcommission agent, unless otherwise provided by the agreement of the Committent with the Commission agent.

#### **Article 870. Deviation from instructions of the committent**

1. The Commission agent has the right to deviate from the Committent's instructions in the cases provided for in Paragraph 2 of Article 847 of this Code.

2. The commission agent, who sold the property at a price lower than the agreed price with the committent, is obliged to reimburse the latter for the difference unless he proves that he was unable to sell the property at the agreed price and the sale at a lower price warned of even greater losses, and that he was not able to obtain the Committent's prior consent to derogate from its instructions.

3. If the Commission agent buys the property at a price higher than the price agreed with the Committent, the Committent, which does not wish to accept such a purchase, is obliged to declare this to the Commission agent without delay upon receipt of notice of the transaction with a third party. Otherwise, the purchase is recognized as accepted by the Committent.

If the Commission agent informs that he accepts the price difference on his account, the Committent shall not be entitled to refuse the transaction concluded for him.

#### **Article 871. Rights to property subject to the Commission**

1. The property received by the Commission agent from the Committent or acquired by the Commission agent at the expense of the Committent is the property of the Committent.

2. The Commission agent has the right to retain the property to be transferred to the Committent or a third party under the transaction concluded by the Commission agent until the amounts due to him under the commission agreement are paid.

**Article 872. Retention by the commission agent of amounts due to him**

The commission agent has the right to deduct the amounts due to him under the commission agreement from all amounts received by him at the expense of the committent.

**Article 873. Responsibility of the Commission agent**

**Footnote. Heading of Article 873 as amended by Law of the Republic of Kazakhstan dated February 27, 2017 No. 49-VI ( effective upon expiry of ten calendar days after the date of its first official publication).**

1. The Commission agent shall be liable to the committent for any omission resulting in the loss, shortage or damage to the property of the committent.

2. If at reception by the commission agent of the property sent by the committent or arrived to the commission agent for the committent, in this property will be damaged or other faults which may be noticed at external examination, and also in case of causing anyone damage to property of the committent held by the commission agent, the commission agent is obliged to take measures to protect the rights of the committent, to collect necessary proofs and about all immediately to notify the committent. When these conditions are met, the commission agent is not liable for the losses of the Committent.

3. The Commission agent, who has not insured the property of the committent in his possession, is responsible for this only in cases when the committent has ordered him to insure the property or insurance of this property is mandatory by law.

4. The Commission agent shall be liable under the laws of the Republic of Kazakhstan for failure to perform obligations under the transaction with a third party.

5. The expenses caused by the commission agent's failure to perform its obligations under the transaction with a third party shall be covered by the commission agent.

**Footnote. Article 873 as amended by Law of the Republic of Kazakhstan dated February 27, 2017 No. 49-VI ( effective upon expiry of ten calendar days after its first official publication).**

**Article 874. Transaction on yourself**

1. Unless otherwise specified by the committent, the commission agreement may be executed by the commission agent in such a way that he himself, as a seller, delivers the goods which he is to buy or accepts as a buyer the goods which he is to sell.

2. The Commission agent, who has delivered the goods as a seller or accepted them as a buyer, is entitled to the usual commissions and can issue invoices for reimbursement of expenses arising from commission transactions.

**Article 875. Acceptance by the Committent of the executed under the commission agreement**

The Committent is obliged:

- 1) accept from the Commission agent everything performed under the agreement;
- 2) examine the property acquired for it by the commission agent, and notify the latter without delay about the shortcomings found in this property;
- 3) release commission agent from obligations, assumed to third parties for the execution of commission rogatory.

**Article 876. Reimbursement of expenses for execution of commission rogatory**

1. The Committent is obliged, in addition to payment of commission remuneration and, where appropriate, additional remuneration for delcredere, to reimburse the commission agent for the amount spent on the execution of the rogatory.

2. The Commission agent shall not be entitled to reimbursement of expenses for the storage of the property of the Committent in his possession, unless otherwise provided in legislation or in a agreement.

**Article 877. Cancellation of instructions by the Committent**

The Committent has the right to cancel the commission rogatory at any time. The losses of the Commission agent caused by canceling of the rogatory will be reimbursed on the same basis.

In case of cancellation of the rogatory the committent is obliged to dispose of the property which is at the commission agent within a month from the moment of cancellation of the rogatory if the agreement does not establish other term. If the committent does not fulfill this duty, the commission agent shall have the right either to hand over the property to storage, or to sell it for potentially more beneficial for the committent price.

**Article 878. Refusal of the Commission agent from execution of the rogatory**

1. The Commission agent shall not be entitled, unless otherwise provided by the agreement, to refuse to execute the accepted rogatory, except for cases when the violation of the Committent's duties entails the impossibility of execution of the rogatory in accordance with the instructions of the Committent or the impossibility of execution arises due to other circumstances for which the Commission agent is not responsible.

The Commission agent must notify the Committent in writing of his refusal and take measures to preserve the property of the Committent.



The Committent, informed of the refusal of the Commission agent to execute the rogatory , is obliged to dispose of the property in the Commission agent's possession within a month from the date of receipt of the refusal, unless otherwise specified in the agreement. If he does not fulfill this duty, the commission agent shall have the right either to hand over the property to storage, or to sell it for potentially more beneficial for the committent price.

2. The Commission agent, who refused to execute the rogatory as a result of the Committent's violation of its obligations, retains the right to Commission remuneration, as well as to reimbursement of expenses incurred.

#### **Article 879. Termination of the Commission agreement**

1. In case of cancellation by the Committent of all orders provided by the commission agreement, the agreement shall be terminated.

2. The Commission agreement is terminated, in addition to the general grounds, also due to:

- 1) refusal of the Commission agent from execution of the agreement;
- 2) the death of the Commission agent, recognition of him as incapable, partially capable, missing or insolvent (bankrupt).

#### **Article 880. Refusal of the Committent from the agreement concluded without specifying the term**

The Committent has the right at any time to withdraw from the Commission agreement concluded without specifying the term by notifying the Commission agent of the refusal not later than one month, if a longer period of notice is not provided for by the agreement.

In this case, the Committent is obliged to pay the Commission agent the remuneration for the transactions made before the termination of the agreement, as well as to reimburse the Commission agent for the expenses incurred before the termination of the agreement.

#### **Article 881. Refusal of the Commission agent from the agreement concluded without specifying the term**

1. The Commission agent has the right at any time to withdraw from the Commission agreement concluded without specifying a period of time by notifying the Committent of the refusal not later than one month, if a longer period of notice is not provided for by the agreement.

In this case the Commission agent is obliged to take measures to safety of the property of the Committent. The Committent is obliged to dispose of the property of the Commission agent before the termination of the agreement. If he does not fulfill this duty, the commission agent shall have the right either to hand over the property to storage, or to sell it for potentially more beneficial for the committent price.

2. The Commission agent, who has cancelled the agreement, is entitled to receive a Commission remuneration and reimbursement of expenses due to him at the time of termination of the agreement.

#### **Article 882. Legal succession in the Commission agreement**

1. In case of reorganization of the legal entity-Commission agent, its rights and obligations shall be transferred to the successors, if within a month from the date of receipt of notification of the reorganization the Committent does not notify of termination of the agreement.

2. In the event of death of the committent- citizen of his recognition as legally incapable, partially capable, missing, as well as in the event of liquidation of the legal entity-committent, the Commission agent is obliged to continue performance of this rogatory before him until the heirs or representatives of the committent not received proper instructions.

#### **Chapter 44. Trust administration**

#### **Article 883. Concept and grounds of trust administration of property**

1. When establishing trust administration of property, the Trustee undertakes to manage on its own behalf the property transferred to its possession, use and disposal, unless otherwise provided by the agreement or legislative acts, in the interests of the beneficiary.

2. Trust administration of property arises (is established) on the basis of:

1) transactions (in particular, under the agreement, under the will, in which the executor of the will is appointed (Trustee);

2) judicial act (upon appointment of a bankruptcy or Rehabilitation Manager in bankruptcy or rehabilitation procedures, establishment of guardianship over the property of an incompetent, missing or declared dead citizen and in other cases provided for by legislative acts of the Republic of Kazakhstan);

3) administrative act (when establishing guardianship over the property of a minor, a deceased person; the entrepreneur's admission to the public service and in other cases provided for by legislative acts).

3. Features of trust administration of property in the implementation of banking activities are established by legislative acts of the Republic of Kazakhstan, regulating banking activities

4. Features of trust administration of state property are established by legislative acts of the Republic of Kazakhstan on state property, public-private partnership, concessions and other legislative acts of the Republic of Kazakhstan.

**Footnote. Article 883 as amended by laws of the Republic of Kazakhstan dated January 12, 2007 No. 225 ( effective from the day of its official publication); dated February 12, 2009 No. 133-IV ( procedure for enforcement see Art. 2); dated March 1, 2011 No. 414-IV (**

effective from the day of its first official publication); dated July 4, 2013 No. 131-V ( effective upon expiry of ten calendar days after its first official publication); dated March 7, 2014 No. 177-V ( effective upon expiry of ten calendar days after the date of its first official publication); dated October 31, 2015 No. 380-V ( effective upon expiry of ten calendar days after the date of its first official publication).

#### **Article 884. Entities of trust administration of property**

1. The Trustor may be the owner, as well as the entity of other proprietary rights or the competent authority authorized to transfer the property to trust administration.
2. The Trustee may be any person, unless otherwise provided by legislative acts.  
The appointment of a Trustee may only be made with his or her consent.
3. The beneficiary (the person in whose interests the property is administrated) may be any person who is not a Trustee, as well as a state or administrative-territorial unit.
4. Unless otherwise provided by legislative acts or Fiduciary Management Agreement, the beneficiary is Trustor of property.

#### **Article 885. Objects of trust administration of property**

1. The object of trust administration may be any property, including money, securities and property rights, unless otherwise provided by legislative acts.
2. The trust is subject to accounting by the Trustee separately from the property belonging to him on the property right (economic management, operational management).
3. The property acquired and (or) received by the Trustee in the course of performance of the duties assigned to it shall be included in the composition of the trust.
4. Foreclosure on the debts of the trustor transferred to the trust administration is not allowed, except for the cases provided for in Article 1081 of this Code, as well as bankruptcy of this person.
5. The transfer of the pledged property to the trust administration does not deprive the pledgeholder of the right to foreclose on this property.

**Footnote. Article 885 as amended by Law of the Republic of Kazakhstan dated March 7, 2014 No. 177-V ( effective upon expiry of ten calendar days after the date of its first official publication).**

#### **Article 886. Fiduciary Management Agreement**

1. Under the Fiduciary Management Agreement, one party (the Trustor) transfers the property to the other party (the Trustee) for trust administration, and the other party undertakes to administrate this property in the interests of the person (the Beneficiary) specified by the Trustor.

During the term of the Fiduciary Management Agreement, the trustor of the trust management shall not be entitled to perform any actions in respect of the property in the trust administration, unless otherwise provided by the legislative acts of the Republic of Kazakhstan or the specified agreement.

2. The Fiduciary Management Agreement shall provide:

- 1) the subject and the term of the Fiduciary Management Agreement;
- 2) the composition of the property transferred in trust administration;
- 3) an indication of the beneficiary;
- 4) the term and Form of the Trustee;
- 5) indication of the person receiving the trust in the event of termination of the Fiduciary Management Agreement.

For certain types of agreements, legislative acts may provide for other essential conditions

The agreement may provide for other conditions, including the amount and form of remuneration of the trustee.

The contract must specify the rights of third parties to the property transferred to trust administration.

3. The Rules on the Fiduciary Management Agreement apply to relations arising on other grounds of establishing trust administration of property, unless otherwise follows from legislation or the substance of the relationship.

**Footnote. Article 886 as amended by Law of the Republic of Kazakhstan dated May 16, 2003N 416.**

#### **Article 887. Form of Fiduciary Management Agreement**

1. Fiduciary Management Agreement is concluded in written form.

2. Real estate trust management agreement is concluded in the form and procedure provided for the agreement on the alienation of real estate.

**Footnote. Article 887 as amended by Law of the Republic of Kazakhstan dated March 25, 2011 No.421-IV ( effective upon the expiry of ten calendar days after its first official publication).**

#### **Article 888. Rights and obligations of the Trustee**

1. The Trustee has the right to perform any actions that the owner could perform with the trust for the purpose of its proper management.

The rights of the Trustee to the trust may be limited by legislative acts, agreement or other act on the basis of which the trust administration of the property has arisen.

The Trustee has the right to alienate and pledge real estate only in cases where it is expressly provided in the act on the establishment of the trust administration.

2. The Trustee has the right to recover the necessary expenses incurred by him in the trust administration of the property, at the expense of the trustor (beneficiary), or at the expense of the trust, or at the expense of income from the use of the trust.

The Trustee has the right to remuneration if it is provided by the act on the establishment of trust administration of property.

3. The Trustee has the right to demand the property entrusted to him from illegal possession, as well as to demand the elimination of the violation of his right to management, at least these violations were not related to the violation of ownership.

4. The Trustee shall submit to the trustor and the beneficiary a report on its activities within the terms and in the manner prescribed by the trust deed. At the request of the trustor and (or) the beneficiary, the report on the activities of the Trustee shall be submitted immediately and in other cases.

5. A transaction made by a trustee in violation of its restrictions shall be deemed valid if the third parties involved in such transaction did not know and should not have known about such restrictions. In this case, the Trustee shall be liable to the trustor in accordance with the agreement and legislative acts.

The Trustee shall be liable for the transaction made by the Trustee in excess of the powers granted to him or in violation of the restrictions imposed on him / her by the Trustee at the expense of his / her property.

#### **Article 889. Subcontracting under the initiative of the Trustee**

1. The Trustee carries out personally the trust administration of property.

2. The Trustee may instruct another person to perform actions necessary for the management of the property entrusted to him, if he is authorized to do so by the act establishing the trust administration of the property or is forced to do so by force of circumstances to ensure the interests of the beneficiary and is not able to ask for the instructions of the trustor. In this case, the Trustee is responsible for the actions of the appointee chosen by him as his own.

The Trustee is obliged to immediately notify the trustor on subcontracting. The Trustor, unless otherwise provided by legislative acts, in this case has the right to declare the termination of trust administration of the property, reimbursing the Trustee previously incurred expenses, and if the trust management is an entrepreneurial activity, then reimbursing the losses.

**Footnote. Article 889 as amended by Law of the Republic of Kazakhstan dated March 1, 2011 No. 414-IV ( effective from the date of its first official publication).**

#### **Article 890. Trustee responsibilities**

1. In case of improper management of the property, the trustor or the beneficiary may file a claim in court for termination of trust management and compensation of losses. In this case, the Trust management is presumed to be guilty of improper performance of duties, if he does not prove that he has taken all measures depending on him for the proper performance of duties.

2. The Trustee shall bear subsidiary liability to third parties for losses caused by improper property management actions.

#### **Article 891. Termination of the Fiduciary Management Agreement**

1. The Fiduciary Management Agreement, along with the general grounds for termination of obligations, shall be terminated:

1) the death of a citizen - the Trustee, declaring him dead, recognizing him as incapable or partially capable, missing; the liquidation of the legal entity - the Trustee;

2) failure of the Trustee or of the trustor in connection with the inability of the Trustee, personally manage the trust;

3) refusal of the trustor to perform the agreement, subject to payment of losses and remuneration to the Trustee, if it was provided for in the agreement;

4) refusal of the Trustee in case of non-notification to him about transfer to management of the property encumbered with pledge with payment of remuneration to it if it was provided by the agreement.

2. The transfer of ownership of the trust does not stop the trust administration of property.

3. Upon termination of the Fiduciary Management Agreement, the trust property shall be transferred to the person specified in the agreement.

4. In case of bankruptcy of the trustor, trust management of the property is terminated and the trust is transferred to the estate.

In case of death of physical person-the trustor of the trust goes to the estate.

5. Upon termination of the agreement on the initiative of one of the parties, the other party shall be notified at least three months in advance (except as provided for in sub-paragraphs 2) and 4) of Paragraph 1 of this Article), unless otherwise provided by legislative acts or the agreement.

6. The procedure and conditions for termination of trust of securities shall be established by the legislation of the Republic of Kazakhstan on the securities market.

**Footnote. Article 891 as amended by laws of the Republic of Kazakhstan dated December 28, 2011 No. 524-IV ( effective upon expiry of ten calendar days after its first official publication); dated March 7, 2014 No. 177-V ( effective upon expiry of ten calendar days after the date of its first official publication).**

#### **Article 892. Trust management of shares and other securities**

1. The Trustee has the right to carry out operations with shares and other securities transferred to trust management and (or) acquired at the expense of the entrusted property or at the expense of income from the use of the trust.

2. Information on the Trust managing of equity securities shall be reflected on the account of the trustor of the trust management, opened by a professional participant of the securities market in the manner prescribed by the legislation of the Republic of Kazakhstan.

3. Trustee in the management of shares (shares) entrusted to him, unless otherwise provided by the act on the establishment of trust administration of property:

- 1) participates in the management of the joint-stock company;
- 2) receives dividends due on shares and transfers them to the beneficiary;
- 3) in case of liquidation of the joint-stock company, it receives the property due to the shares and transfers it in accordance with the agreement to the beneficiary or the trustor;
- 4) carries out the alienation of shares and other transactions with them, including collateral.

4. Features of trust management of securities are established by the legislation of the Republic of Kazakhstan.

**Footnote. Article 892 as amended by Law of the Republic of Kazakhstan dated May 16, 2003 No. 416.**

#### **Article 893. Investment funds assets trust management**

Features of Investment funds assets trust management are carried out on the terms and in the manner established by the legislative act of the Republic of Kazakhstan on investment and venture funds.

**Footnote. Article 893 as amended by Law of the Republic of Kazakhstan dated July 7, 2004 No. 577; as amended by Law of the Republic of Kazakhstan dated July 4, 2018 No. 174 -VI ( effective upon expiry of ten calendar days after the date of its first official publication).**

#### **Article 894. Trust management of the enterprise as a property complex**

Trust management of the enterprise as a property complex is carried out on the terms and in the manner provided by the act on the establishment of trust management of property, unless otherwise provided by legislative acts.

#### **Article 895. Trust management of property of a civil servant**

The property of the civil servant used for business activity is subject to transfer to trust management in cases and in the order provided by legislative acts.

### **Chapter 45. The Complex entrepreneurial license (franchising)**

## **Article 896. The concept of a complex entrepreneurial license agreement**

1. Under the complex entrepreneurial license agreement, one party (complex licensor) undertakes to provide the other party (complex licensee) for a remuneration a set of exclusive rights (license complex), including, in particular, the right to use the brand name of the licensor and protected commercial information, as well as other objects of exclusive rights (trademark, service mark, patent, etc.) provided for in the agreement, for use in the business activities of the licensee.

2. The complex entrepreneurial license agreement provides for the use of the license complex, business reputation and commercial experience of the licensor to a certain extent (in particular, with the establishment of a minimum and (or) maximum volume of use), with or without indication of the territory of use, in relation to a certain field of activity (sale of goods received from the licensor or produced by the user, implementation of other commercial activities, performance of work, provision of services).

3. Restrictions on use of the complex entrepreneurial license agreement in certain spheres of entrepreneurial activity shall be established by legislative acts.

## **Article 897. Form of the complex entrepreneurial license agreement**

A complex entrepreneurial license agreement must be concluded in writing form.

### **Article 897-1. Registration of granting the right to use the intellectual property under the complex entrepreneurial license agreement**

Granting the right to use inventions, utility models, industrial designs, selection achievements, topologies of integrated circuits, trademarks (service marks), registered in accordance with the legislation of the Republic of Kazakhstan or protected without registration by virtue of international agreements, under the agreement of complex entrepreneurial license is subject to registration in the expert organization.

**Footnote.** Chapter 45 is amended by Article 897-1 in accordance with Law of the Republic of Kazakhstan dated April 7, 2015 No. 300-V ( effective upon expiry of ten calendar days after the date of its first official publication); as amended by Law of the Republic of Kazakhstan dated June 20, 2018 No. 161-VI ( effective upon expiry of ten calendar days after the date of its first official publication).

## **Article 898. Licensor's obligations**

The licensor shall, within the terms and to the extent provided for in the agreement, submit to the licensee technical and commercial documentation and other information necessary for the licensee to exercise the rights granted to him under the agreement, as well as to provide training and advice to the licensee on issues related to the exercise of these rights.

The agreement may provide for other obligations of the licensor.



## **Article 899. Licensee`s obligations**

Unless otherwise provided by the agreement, the licensee shall:

- 1) use the licensor's complex license in the manner specified in the agreement when carrying out the activities as specified in the agreement;
- 2) allow the licensor to enter its production area, provide it with the necessary documentation and assist in obtaining the information necessary to monitor the correct use of the granted exclusive rights;
- 3) comply with all instructions and directions of the licensor regarding the nature, methods and conditions of use of the transferred exclusive rights;
- 4) not to disclose secrets of licensor's production and other confidential commercial information received from it;
- 5) inform buyers (customers) in the most obvious way for them that he uses the trade name, trademark, service mark or other means of individualization on the basis of the agreement of the complex entrepreneurial license.

## **Article 900. Restrictive conditions**

1. The complex entrepreneurial license agreement may provide for restrictive (exclusive) conditions, in particular:

- 1) obligation of the licensor not to issue other similar complex entrepreneurial licenses for their use in the territory assigned to the licensee or to refrain from direct independent activity in this territory;
- 2) obligation of the licensee not to compete with the licensor in the territory of use of the complex entrepreneurial license in respect of entrepreneurial activities carried out by the licensee using the exclusive rights belonging to the licensor;
- 3) licensee's refusal to obtain other complex entrepreneurial license from competitors (potential competitors) of the licensor;
- 4) the obligation of the licensee to agree with the licensor the location of the premises used in the exercise of the exclusive rights granted under the agreement, as well as their external and internal design.

2. The restrictive conditions of the complex entrepreneurial license agreement, by virtue of which:

- 1) the licensor has the right to determine the price of sale of goods by the licensee or the price of works (services) performed (provided) by the licensee, or to set the upper or lower limit of these prices;
- 2) the licensee has the right to sell goods, perform works or provide services exclusively to a certain category of buyers (customers) or exclusively to buyers (customers) having a location (place of residence) in the territory specified in the agreement.

Footnote. Article 900 as amended by Law of the Republic of Kazakhstan dated February 27, 2017 No. 49-VI ( effective upon expiry of ten calendar days after the date of its first official publication).

**Article 901. The responsibility of the licensor according to the requirements of the licensee**

The licensor shall bear subsidiary responsibility for the requirements imposed on the licensee on the non-compliance of the quality of goods (works, services) sold (performed, rendered) by the licensee under complex entrepreneurial license agreement.

**Article 902. Complex entrepreneurial sublicense**

1. The complex entrepreneurial license may provide for the licensee's right to authorize the use of all or certain exclusive rights granted to him / her to other persons on the terms agreed with the licensor or specified in the agreement.

2. The complex entrepreneurial license agreement may contain an obligation of the licensee to issue a certain number of sub-licenses within a certain period of time with or without specifying the territory of their use.

3. The Rules of the basic agreement of the licensor with the licensee shall apply to the complex entrepreneurial sublicense agreements, unless otherwise follows from the peculiarities of the complex entrepreneurial sublicense agreement.

**Article 903. Dependence of the complex entrepreneurial sublicense on the principal agreement of the licensor with the licensee**

1. A complex entrepreneurial sublicense agreement may not be concluded for a longer period than the principal agreement of the licensor with the licensee.

2. Termination of the complex entrepreneurial sublicense agreement ceases to inmatates in accordance with all contracts of complex business sublicense.

3. If the principal agreement of the licensor with the licensee on the grounds provided for by legislative acts is declared invalid, the complex entrepreneurial sublicense agreements concluded in accordance with it are considered null and void.

Footnote. Article 903 as amended by Law of the Republic of Kazakhstan dated February 27, 2017 No. 49-VI ( effective upon expiry of ten calendar days after the date of its first official publication).

**Article 904. Peculiarities of relations between licensor, licensee and sublicensee**

1. Unless otherwise provided by the complex entrepreneurial sublicense agreements, upon its early termination the rights and obligations of the licensee under the complex entrepreneurial sublicense agreements shall transfer to the licensor.

2. The licensee shall bear subsidiary liability for damage caused to the licensor by the actions of sub-licensees, unless otherwise provided by the complex entrepreneurial license agreements

**Article 905. Validity of the agreement in force at amendment of the firm name**

In the event the licensor of its firm names the complex entrepreneurial license agreements is valid and applies to the new firm names of the licensor, if the licensee does not require termination of the agreement and compensation for loss. If the agreement remains in force, the licensee may demand a commensurate reduction in the remuneration due to the licensor.

**Article 906. Validity of the agreement in force at amendment of the firm name of one or more of the exclusive rights given to the**

If the licensor amends one or more exclusive rights transferred for use, the complex entrepreneurial license agreement shall be valid in respect of the new exclusive rights of the licensor, unless the licensee requires termination of the agreement and compensation of loss. If the agreement remains in force, the licensee may demand a commensurate reduction in the remuneration due to the licensor.

**Article 907. Consequences of termination of the exclusive right transferred to use**

If during the period of validity of the complex entrepreneurial license agreement the term of any exclusive right included in the complex transferred for use under the agreement has expired, or such right has ceased on another basis, the agreement remains valid, except for the provisions relating to the terminated right, and the licensee, unless otherwise provided by the agreement, has the right to demand a proportionate reduction of the remuneration due to the licensor.

**Article 908. Termination of a complex entrepreneurial license agreement**

1. The complex entrepreneurial license agreement concluded with the indication of the term may be terminated in accordance with the Rules of this Code.

2. The party to the agreement has the right to withdraw from the termless complex entrepreneurial license agreement by notifying the other party six months in advance, unless the agreement provides for a longer notice period.

**Article 909. Legal succession in the complex entrepreneurial license agreement**

1. The transfer to another person of any separate exclusive right, included in the license complex, is not the basis for amendment or terminating the contract. The new assignor enters into the agreement in terms of rights and obligations relating to the transferred exclusive right

2. In case of death of the licensor-citizen his rights and obligations under the complex entrepreneurial license agreement transfer to the successor provided that the last is registered or within six months from the date of opening of inheritance is registered as the entrepreneur. Otherwise, the agreement is terminated.

Management of the license complex in the period before the acceptance by the lawful heir of the relevant rights and obligations or before the registration of the lawful heir as an entrepreneur is carried out by the Trustee appointed by the notary in accordance with the established procedure.

## **Chapter 46. Competitive Liabilities**

### **Article 910. Content of Competitive Liabilities**

1. This chapter regulates the competitive liabilities, arising from the public promise of rewards, and obligations, arising on the basis of a tender, auction and other forms of bidding, established by the legislative acts of the Republic of Kazakhstan.

Competitive liabilities may also be regulated by other legislative acts of the Republic of Kazakhstan.

2. In accordance with the competitive liabilities, the initiator shall offer an indefinite or a particular group of persons to participate in the competitive tender based on the subjects, initial terms and conditions thereof, and shall undertake to pay a fixed reward to a winner and (or) enter into a contract, which corresponds to the content of the competitive liabilities.

3. Invitation to participate in the competitive tender can be made by the initiator of the competitive tender, either directly or through an intermediary, being the organizer of the competitive tender.

Rights and liabilities of the intermediary shall be determined by his/her/it contract with the initiator of the competitive tender.

4. Competitive tender may be open, when the invitation of the initiator to participate in the competitive tender is addressed to everyone interested, by announcing in the press and other media, or may be closed, when the invitation is sent to a particular group of persons at the discretion of the competitive tender initiator.

5. Open competitive tender may be stipulated by the preliminary qualification of its participants, when the initiator of the competitive tender conducts preliminary selection of individuals among those who wanted to participate in the competitive tender.

**Footnote. Article 910 as amended by the Law of the Republic of Kazakhstan No. 323 dated May 21, 2002.**

### **Article 911. Public Promise of Reward**

1. A person who has announced in public the payment of reward in monetary or other form for performance of works or achievement of other results, should fulfill an obligation to

a person, who is recognized as the winner in accordance with the terms of the competitive tender.

2. Public promise of a reward should contain conditions, providing the essence of the task, criteria and order of results, amount and form of the reward, as well as the procedure and dates for the announcement of results.

3. The decision to pay a reward should be made and the payment of a reward should be carried out within the time limit, specified according to the promise.

4. If a competitive tender was announced for the creation of a work of science, literature and art, the person, who gave a public promise, shall acquire a preferential right to conclude the contract with the creator of the work for the use of this work with the payment of a reward , unless otherwise provided for by a public promise of a reward.

5. The person, who gave a public promise to pay a reward, shall be obliged to return the works, which have not received any reward, to their creators, unless otherwise provided for by the terms of the competitive tender.

#### **Article 912. Cancelling Public Promise of Reward**

1. The person who have announced in public about the payment of a reward shall have the right to cancel the promise, except for cases when the announcement contains or implies the inadmissibility of refusal or is given a certain time limit for the action, for which the reward is promised, or at the time of the announcement of refusal, at least one of the persons have already carried out actions, specified in the announcement.

2. Cancellation of the public promise of a reward shall not relieve the person, who announced about the reward, from reimbursement to a person of expenses, incurred in connection with the commission of the action, prescribed in the announcement. The amount of a reward in all cases cannot exceed the reward specified in the announcement.

#### **Article 913. Conducting Lotteries, Totalizators and Other Games**

1. Relations between the state or a person, who received a license to conduct totalizators and other risk-based games, lottery operators and participants of such games shall be based on the contract.

The contract between the lottery operator and participant shall be recognized as concluded from the moment the lottery participant pays the lottery ticket, receipt or any other document and the lottery ticket, receipt or other document are issued.

2. Persons who in accordance with the terms of the lottery, totalizator or other games are recognized as winners should be paid out by the initiator (organizer) of the games the winnings, and lottery winners should be paid by the lottery operator.

Payment of winnings by the initiator (organizer) of the games in terms, amount, form (in monetary terms or in kind) shall be carried out in accordance with the conditions of the games

, and if the date of payment has not been specified in these conditions – no later than ten days after the results of the games were summed up.

Payment of winnings by the lottery operator shall be carried out in terms established by law, in the amount, form (in monetary terms or in kind) determined by the conditions of the lottery.

3. In cases of default by the initiator (organizer), lottery operator on the liabilities specified in paragraph 2 of this Article, the participant, who has won the lottery, totalizator or other games, shall have the right to demand payment of winnings, as well as reimbursement for losses.

**Footnote. Article 913 as amended by the Law of the Republic of Kazakhstan No. 496-V dated April 9, 2016 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 914. Claims Associated with Organization of Games and Bets and Participation in Them**

Demands of citizens and legal entities, associated with the organization of (risk-based) games or bets (games of chance and bets), or participation in them shall not be subject to judicial protection, except for claims arising out of the relations mentioned in Article 913 of this Code, in the event that the conditions of games of chance and bets are met by the organizer of the gambling industry.

**Footnote. Article 914 as amended by the Law of the Republic of Kazakhstan No. 157-IV dated May 4, 2009 (the order of enforcement see Art. 2).**

#### **Article 915. Tender**

1. When the bidding is held in the form of a tender its initiator (organizer) undertakes on the basis of the proposed initial conditions to conclude a contract (as a seller, buyer, customer, contractor, lessor, lessee, etc.) with the tender participant, who offers better terms and conditions for the tender initiator.

2. Tender participants, within the time limits defined in the terms and conditions, shall submit to the tender initiator or organizer proposals in writing attaching all tender documentation. Conditions of the tender may provide submission of proposals in a sealed envelope and under the motto.

Failure to comply with the deadline for submission of proposals shall entail exclusion of the person, who missed the deadline, from the number of tenderers, if the initiator or organizer does not notify in writing this person about admission to the tender.

3. Choosing the winner among the participants shall be carried out by the tender initiator or tender commission created by him/her/it in closed or open manner according to the terms of the tender.

4. The tender may be recognized as invalid by its initiator, if there were less than two participants or proposals of the tender participants are recognized by the initiator of the tender as not complying with the tender conditions, except for cases, established by the laws of the Republic of Kazakhstan.

5. The initiator of the tender shall sign the relevant contract with the successful tenderer. In case of refusal of the initiator to conclude the contract with the successful tenderer, the successful tenderer shall have the right to recover the losses incurred.

6. Conditions of the tender may provide for paying a guarantee fee by each tender participant, which shall be returned to participants after the results of the tender. The guarantee fee shall not be returned, if the tenderer refuses his/her/it proposal or modifies it before the expiration of the tender.

The guarantee fee shall not be returned to the successful tenderer, in the event that the successful tenderer refuses to sign a contract with the tender initiator on conditions, that meet the proposals of the successful tenderer.

**Footnote. Article 915 as amended by the Law of the Republic of Kazakhstan No. 421-IV dated March 25, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 02.01.2021 No. 399-VI (shall be enforced upon expiration of ten calendar days after the date of its first official publication).**

#### **Article 916. Auction**

1. When the bidding is held in the form of an auction the seller undertakes to sell the auction item to the bidder who offers him/her/it the highest price.

2. The auction can be held under the terms of increase or decrease of the price announced by the seller.

3. The terms of the auction, held under the terms of decrease of prices, may provide for a minimum price at which the item can be sold.

4. The auction item may be any movable or immovable property, which is not withdrawn from the civil transactions, including items of intellectual property, contracts and property rights, including import, export and other quotas and licenses.

5. Proposals for participation in the auction should contain information about the auction item, time and place of the auction.

6. Persons, wishing to participate in the auction, should submit a request to participate in the auction and contribute a fixed amount of a guarantee fee until the start of the auction, unless otherwise provided by the terms of the auction.

7. The auction may be held, if it there are at least two participants (customers), except for cases, established by the laws of the Republic of Kazakhstan.

8. If none of the participants of the auction showed the willingness to buy the item, the initial price may be reduced or the item can be removed from the auction.

9. Unless otherwise provided for by the terms of the auction, the contract on selling the auction item shall be concluded with the bidder, who offered the highest price.

10. If the buyer refused to conclude the contract, provided for in paragraph 9 of this Article, he/she/it should be excluded from the number of bidders, the guarantee fee shall not be returned, and the auction item which the buyer refused to buy could again be put up for auction.

11. The guarantee fee shall be returned to the persons who took part in the auction, but did not buy anything.

The guarantee fee shall be credited toward the purchase price for the persons, who purchased any item in the auction.

**Footnote. Article 916 as amended by the Law of the Republic of Kazakhstan No. 421-IV dated March 25, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 02.01.2021 No. 399-VI (shall be enforced upon expiration of ten calendar days after the date of its first official publication).**

## **Article 47. Liabilities, arising from injury**

### **Paragraph 1. General provisions**

#### **Article 917. General Grounds for Responsibility for Injury**

1. The injury (property and (or) non-property damage), caused by illegal actions (inaction) to the property or non-property benefits and rights of citizens and legal entities shall be subject to full redress by the person who inflicted the injury.

According to the legislative acts of the Republic of Kazakhstan the obligations to redress the injury as well as a higher amount of the redress may be imposed on a person who is not the inflictor of injury.

2. The person who inflicted the injury shall be exempted from redress, if he/she proves that the injury was caused not due to his/her fault, except the cases, provided by this Code.

3. The injury inflicted by lawful actions shall be subject to redress in cases provided by this Code and other legislative acts.

#### **Article 918. Prevention of Infliction of Injury**

1. The risk of infliction of injury in the future can be the ground for the action for prohibition of activities that create such risk.

2. If the injury caused is the consequence of the operation of an enterprise, structure or any other production activity which continues to inflict injuries or threatens with a new injury, the court shall have the right to bound to suspend the relevant activity in addition to the redress of injury.



The court may dismiss the action for the suspension of the relevant activity, if the suspension of activity contradicts public interests. The refusal to suspend such activity shall not deprive the injured persons of the right to redress the injury inflicted by this activity.

#### **Article 919. Infliction of Injury in State of Justifiable Defense**

The injury inflicted in the state of justifiable defense, unless the requirements of justifiable defense are exceeded, shall not be subject to redress.

#### **Article 920. Infliction of Injury in State of Absolute Necessity**

The injury, inflicted in the state of absolute necessity, that is for the removal of danger threatening the inflictor of injury or other persons, if this danger could not be eliminated under the given circumstances with other means, shall be redressed by the person who has caused this injury.

Taking into account the circumstances under which such injury was inflicted, the court may impose the obligation of its redress on a third person, in whose interest the inflictor of injury acted, or release this third person and the inflictor of injury from the redress of this injury in full or in part.

#### **Article 921. Liability of Legal Entity or Individual for Injury Inflicted by Employee**

1. A legal entity or an individual shall redress the injury, inflicted by his/her/it employee during the performance of labour (official) duties.

2. With respect to the provisions of this Code on liabilities for the infliction of injury, individuals performing their work on the basis of a labour contract, and also individuals performing their work under a civil-law contract shall be recognized as employees, if in this case they acted or should have acted on the assignment of the relevant legal entity or individual and under their control over the safe conduct of works.

Economic partnerships, joint stock companies and production cooperatives shall redress the injury inflicted by their participants (members) during the performance by them of the business, production or any other activity of the partnership, joint stock company or cooperative.

**Footnote. Article 921 as amended by the Law of the Republic of Kazakhstan dated May 15, 2007 No. 253.**

#### **Article 922. Liability for Injury Inflicted by State and Local Self-Government Bodies and Also by Their Officials**

1. The injury inflicted as a result of the issuance by a state or self-government body of an act not complying with the legislative acts shall be subject to redress based on a court decision, regardless of the fault of the bodies and officials who issued the act. The injury shall

be redressed at the expense of the state treasury. The representatives of the Treasury shall be financial authorities or other bodies and individuals performing special assignment.

2. Local self-government bodies shall be responsible for the injury, caused by their bodies and officials, in a judicial proceeding.

3. The injury inflicted by unlawful actions (inaction) of public officials of state bodies in the sphere of administration governance shall be redressed on common basis (Article 917 of this Code) by using money, which is at the disposal of the bodies. In case of their insufficiency, the injury shall be redressed through subsidiaries at the expense of the state treasury.

#### **Article 923. Liability for Injury Inflicted by Illegal Actions of Bodies of Inquest, Preliminary Investigation, Procurator's Office and Court**

1. The injury inflicted on an individual as a result of illegal conviction, illegal criminal prosecution, illegal application of confinement under guard as a remand in custody, house arrest, written undertaking not to leave the place of residence, illegal imposition of an administrative penalty in the form of arrest or corrective labour, illegal placement in a psychiatric or other medical institution shall be redressed by the state in full regardless of the fault of the officials of the bodies of inquest, preliminary investigation, procurator's office and court in the procedure established by the legislative acts.

2. The injury inflicted to an individual or legal entity as a result of other illegal activities of the bodies of inquest, preliminary investigation and procurator's office shall be redressed on the grounds and in the procedure established by Article 922 of this Code.

3. The injury inflicted by illegal actions (inaction) of judges and other court employees in the administration of justice, except as provided in paragraph 1 of this Article shall be redressed on common basis and in the procedure established by paragraph 3 of Article 922 of this Code.

#### **Article 924. Redress of Injury by Person, Who Has Insured Liability**

A legal entity or citizen, who has insured his/her/it liability by way of voluntary or compulsory insurance when insurance compensation is not sufficient to redress the inflicted injury, shall compensate for the difference between the insurance compensation and the actual injury.

#### **Article 925. Liability for Injury, Inflicted by Minors under Age of Fourteen Years**

1. Lawful guardians of minors under 14 years shall be liable for the injury inflicted by the minors unless they prove that the injury has been inflicted not through their fault.

2. If a minor left without parental care has been placed under supervision in the educational, medical, social protection organization or another organization which by virtue

of the law became his/her guardian, this organization should redress for the injury inflicted by the minor, unless it proves that the injury has been inflicted not through his/her fault.

3. If a minor has inflicted injury when he/she has been placed under supervision in the educational, medical or another organization obliged to exercise supervision over him/her or of a person obliged to exercise supervision over him/her under the contract, this organization or person shall be liable for the inflicted injury, unless they prove that the injury has been caused not through their fault in exercising supervision.

4. The obligation of legal representatives, educational, medical and other organizations to redress the injury shall not end with the attainment of majority by the minor or receipt of the property sufficient to redress the injury.

If the legal representatives died or they and other individuals, specified in paragraph 3 of this Article, do not have sufficient means to redress the injury, caused to life and health of the injured person, and if the inflictor of the injury who has acquired a legal capacity in full possesses such means, the court shall have the right to take a decision on the redress of the injury in full or in part at the expense of the inflictor of the injury by taking into account the property status of the injured person and the inflictor of the injury, and also other circumstances.

**Footnote. Article 925 as amended by the Law of the Republic of Kazakhstan No. 421-IV dated March 25, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 926. Liability for Injury Inflicted by Minors at Age from 14 to 18 Years**

1. Minors at the age from 14 to 18 years shall bear liability for the inflicted injury on general grounds.

2. In case when a minor at the age from 14 to 18 years has no property or other income sufficient to redress injury, the latter shall be redressed in full or in the lacking part by his/her legal representatives, unless they prove that the injury has been inflicted not through their fault.

If a minor at the age from 14 to 18 years left without parental care has been placed under supervision in the educational, medical, social protection organization or another organization obliged to exercise supervision over him/her, this organization shall redress the injury in full or in the missing part, unless they fail to prove that the injury has been inflicted not through their fault.

3. The obligation of legal representatives and the respective organization to redress the injury inflicted by a minor at the age from 14 to 18 years shall cease upon the attainment of majority by the inflictor of injury in cases when before the attainment of majority he/she acquired income or other property, which are sufficient to redress the injury, or when he/she acquired legal capacity before the attainment of majority (paragraph 2 of Article 17, Article 22-1 of this Code).

Footnote. Article 926 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication); dated March 25, 2011 No. 421-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 927. Liability of Parents Deprived in Parental Rights for Injury Inflicted by Minors**

The court may impose liability for the injury inflicted by a minor on his/her parent during three years after the parent was deprived of his/her parental rights, if the child's behaviour that entailed the infliction of injury had been the result of the improper exercise of parental duties.

#### **Article 928. Liability for Injury Inflicted by Individual Recognized as Legally Unfit**

1. The injury inflicted by an individual recognized as legally unfit (Article 26 of this Code ) shall be redressed by his/her guardian or the organization which is duty-bound to exercise supervision over him/her, unless they prove that the injury has been inflicted not through their fault.

2. The obligation of the guardian or the organization which is duty-bound to exercise supervision over the redress of the injury inflicted by the individual, recognized as legally unfit, shall not cease in case of the subsequent recognition of him/her as having a legal capacity.

3. If the guardian has died or has not sufficient pecuniary means to redress the injury inflicted on the life or health of the injured person, and the inflictor of the injury possesses such means, the court shall have the right to take a decision on the redress of the injury in full or in part at the expense of the inflictor of the injury by taking into account the property status of the injured party and the inflictor of the injury.

#### **Article 929. Liability for Injury Inflicted by Individual Recognized as Having Limited Legal Capacity**

The injury inflicted by the citizen, who is recognized to have limited legal capacity due to the abuse of gambling, betting, alcohol or narcotics (Article 27 of this Code), shall be redressed by the inflictor of injury on a common basis.

Footnote. Article 929 as amended by the Law of the Republic of Kazakhstan dated 02.07.2020 No. 356-VI (shall be enforced upon expiration of ten calendar days after the date of its first official publication).

#### **Article 930. Liability for Injury Inflicted by Individual Who Is Incapable of Understanding Significance of His/Her Actions**

1. An individual with a legal capacity or a minor at the age from 14 to 18 years who has inflicted the injury in a state when he/she could not understand the significance of his/her actions or guide them shall not be liable for the injury inflicted by him/her.

If the injury is inflicted on the life or health of the injured person, the court may impose the obligation to redress the injury in full or in part on the inflictor of injury by taking into account the property status of the injured party and the inflictor of injury, and also other circumstance.

2. The inflictor of injury shall not be released from liability, if he/she has brought himself/herself in a state by the abuse of alcoholic drinks, narcotics or by any other method.

3. If the injury is inflicted by the person who could not understand the significance of his/her actions or guide them in consequence of his/her mental alienation or intellectual impairment, the court may impose the obligation to redress the injury on the able-bodied persons, living with him/her: spouse, parents, and children of majority age who knew about the state of the inflictor of injury but failed to raise the question about the recognition of this person as legally unfit and establishment of supervision over him/her.

### **Article 931. Liability for Injury Inflicted by Activity with Increased Hazard for Surrounding Persons (Source of Increased Danger)**

1. Legal entities and individuals whose activity is associated with increased hazard for surrounding persons (transport organizations, industrial enterprises, construction sites, vehicle owners, etc.) shall be obliged to redress the injury inflicted by a source of increased danger, unless they prove that injury has been inflicted as a result of force majeure or the intent of the injured person.

The obligation of redressing injury shall be imposed on the legal entity or the individual who possess the source of increased danger on the right of ownership, right of economic or operative management or any other lawful ground (contract of hire, power of attorney for the right to drive a transport vehicle, order of the competent authority on the transfer of the source of increased danger, etc.).

2. The owners of sources of increased danger shall bear joint liability for the injury inflicted as a result of the interaction of these sources (collusion of transport vehicles, etc.) to third persons on the grounds, provided for by paragraph 1 of this Article.

The injury inflicted as a result of the interaction of the sources of increased danger to their owners shall be redressed on general grounds. Herewith:

- 1) the injury inflicted by the fault of one party shall be redressed in full by that party;
- 2) the injury caused by the fault of two or more parties shall be redressed in proportion to the degree of fault of each of the parties.

If it is impossible to determine the degree of fault of each party, the responsibility shall be shared equally between them.

None of the parties shall have the right to demand redress for the injury without fault of the parties in infliction of injury. Each party in such a case shall bear the risk of incurred losses.

3. The owner of a source of increased danger shall not be liable for the injury inflicted by this source, if he/she proves that the source has not been in his/her possession as a result of the illegal actions of other persons. In such cases liability for the injury inflicted by the source of increased danger shall be borne by the persons who have acquired the source contrary to law. If the owner of the source of increased danger is guilty of the withdrawal of this source from his/her possession contrary to law, liability may be imposed both on the owner and the person who has acquired the source of increased danger contrary to law.

#### **Article 932. Liability for Injury Jointly Inflicted by Persons**

Persons who jointly inflicted the injury shall be jointly liable to the injured party.

The court shall have the right to impose liability on the persons who jointly inflicted the injury in response of the application of the injured person and in his/her interests.

#### **Article 933. Right of Recourse to Person Who Has Inflicted Injury**

1. The person who has redressed the injury inflicted by another person (the employee in the discharge of official (labour) duties, the person driving a vehicle, etc.) shall have the right to recourse to this person in the amount of the paid compensation, unless a different amount of compensation is established by law.

2. The inflictor of injury who has redressed the injury jointly with other persons shall have the right to demand from each inflictor of injury the share of the compensation paid to the injured party in the amount that corresponds to the degree of guilt of this inflictor of injury. If it is impossible to determine the degree of guilt, the shares shall be recognized as equal.

3. The state, which has redressed the injury caused by officials of the investigating agencies, prosecutor's office and court (paragraph 1 of Article 923 of this Code), shall have the right of recourse to these persons in cases, where guilt of such persons is set by the court decision, came into legal force.

4. The persons who have redressed injury on the grounds, referred to in Articles 925-928 of this Code shall have no right of recourse to the inflictor of injury.

#### **Article 934. Methods of Redressing Injury**

While satisfying the claim for redressing injury, the court in accordance with the circumstances of the case, shall bind the person responsible for the infliction of injury to compensate for the losses incurred in full or redress injury in kind (to present a thing of the same sort and quality, to repair a damaged thing, etc.).

## **Article 935. Registration of Fault of Injured Party and Property Status of Person Who Has Inflicted Injury**

1. The injury inflicted due to the intent of the injured party shall not be redressed.
2. If the gross negligence of the injured party has facilitated the emergence or increase of injury, the amount of redress shall be reduced depending on the degree of the guilt of the injured party and the inflictor of injury.
3. In the event of gross negligence on the part of the injured person and in the absence of guilt of the inflictor of injury in cases where his/her liability commences regardless of his/her guilt, the amount of redress shall be reduced or the redress of injury may be rejected, unless otherwise is provided for the legislative acts. If the injury is inflicted on the life or health of the individual, the refusal to redress injury shall not be allowed.
4. The fault of the injured party shall not be taken into account in case of the reimbursement of additional expenses (paragraph 1 of Article 937), redress of injury in connection with the death of the person (Article 940 of this Code), and also in case of the compensation for funeral costs (Article 946 of this Code).
5. The court may reduce the amount of redress for the injury inflicted by an individual with due account of his/her property status, with the exception of cases where the injury has been inflicted by deliberate actions.

### **Paragraph 2. Redress of Injury**

#### **Inflicted on the Life or Health of Individual**

### **Article 936. Redress of Injury Inflicted on Life or Health of Individual during Fulfillment of Contractual Obligations**

The injury inflicted on the life or health of an individual during the fulfillment of contractual obligations, and also during the discharge of official duties, duties during the military service shall be redressed according to the rules, provided for by this Chapter, unless a higher degree of responsibility is provided by the legislative acts or the contract.

### **Article 937. Extent and Character of Redress of Injury Inflicted on Person's Health**

1. In case of maiming an individual or of any other injury to his/her health redress shall be extended to the earnings (income) which has been lost by the injured person and which he/she had or could definitely have, and also to the expenses incurred by injury to his/her health (on medical treatment, additional nutrition, purchase of medicines, prosthesis, care by other people, sanatorium-resort therapy, purchase of special transport vehicles, retraining), if it is found out that the injured person is in need of aid of these kind and care and has not the right to receive them free of charge.

The expenses incurred by the injury to health (on medical treatment, additional nutrition, purchase of medicines, prosthesis, care by other people, sanatorium-resort therapy, purchase of special transport vehicles, retraining) shall be reimbursed by the employer who caused injury to the employee's health, within the Labor Code of the Republic of Kazakhstan.

2. In estimating the lost earnings (income) the disability pension, awarded to the injured person in connection with mutilation or any other injury to his/her health, and also other benefits awarded both before and after the infliction of injury on his/her health as well as pensions shall not be counted towards the redress of the injury. The earnings (income), received by the injured party after injury to his/her health, shall not be counted towards the redress of injury.

3. The extent and amount of the redress of injury due to the injured party may be increased by the legislative acts or the contract.

**Footnote. Article 937 as amended by the Law of the Republic of Kazakhstan No. 311-V dated April 27, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 938. Estimation of Earnings (Income) Lost as a Result of Impairment of Health**

1. The amount of the earnings (income) lost by the injured person and subject to redress shall be determined in percentage of the average monthly earnings (income) before maiming or any other injury to health or before the loss of the capacity for work, which correspond to the degree of the loss by the injured person of his/her professional ability to work, and in the absence of professional ability to work - to the degree of the loss of general capacity for work.

2. The lost earnings (income) of the injured person shall include all types of payment on which an individual income tax is imposed for his/her labour under labour and civil-law contracts in the place of his/her main work and as a second place of work. Lump-sum payments (compensations for unused leave and retirement benefit in case of dismissal, etc.) shall not be taken into account. The paid benefit shall be reckoned over the period of temporal physical disability or maternity leave. Income from business activity, and also the author's fees shall be included in the lost earnings, with income from business being included on the basis of the data supplied by a national revenue authority.

All types of earnings (income) shall be reckoned in the amounts charged before tax.

3. The average monthly earnings (income) of the injured person shall be reckoned by dividing the total sum of the earnings (income) for the 12 months of work that preceded the injury to his/her health by 12. In case where the victim had worked for less than 12 months by the time of the infliction of injury, the average monthly earnings (income) shall be reckoned by dividing the total sum of earnings (income) for the actually worked number of months that preceded the injury to his/her health by the number of these months.



The months during which he/she has worked not in full measure shall be replaced at the wish of the injured person by the preceding months in which he/she worked in full measure or shall be excluded from the counting if it is impossible to replace them.

4. In case where the injured person did not work at the time of the injury, at his/her wish shall be taken into account the salary before the dismissal or the usual amount of labour remuneration for the worker of his/her qualification in the given locality, but not less than the tenfold value of the monthly calculation index established in accordance with legislative acts.

5. If stable changes improving the property status of the injured person (raise in wages according to the position held, transfer to a high-paid job, employment after the graduation from an educational institution and in other cases when the stability of a change or possibility of a change in the pay of the injured person is proved) took place before the maiming or other injury to health, shall be taken into account only the earnings (income) which he/she received or should have received after the appropriate change in case of estimating his/her average earnings (income).

6. Excluded by the Law of the Republic of Kazakhstan № 311-V dated April 27, 2015 ( shall be enforced upon expiry of ten calendar days after its first official publication).

Footnote. Article 938 as amended by the Law of the Republic of Kazakhstan No. 276 dated December 24, 2001; No. 424-IV dated March 30, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 248-V dated November 7, 2014 ( shall be enforced upon expiry of ten calendar days after its first official publication); No. 311-V dated April 27, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 939. Redress of Injury in Case of Impairing Health of Person Who Has Not Reached Majority**

1. In case of maiming or any other injury inflicted to health of a minor who has not reached the age of 14 years and who has not got earnings (income), the person responsible for the inflicted injury shall be obliged to reimburse the expenses connected with the injury to health.

2. Upon the attainment by a minor of the age of 14 years and also in the event of the infliction of injury to a minor from 14 to 18 years of age, who has not got earnings (income), the person responsible for the inflicted injury shall be obliged to redress the injury caused by the loss of or decrease in capacity for work in addition to the reimbursement of the expenses incurred by the injury to health on the basis of the tenfold value of the monthly calculation index established in accordance with legislative acts.

If by the time of the injury to health a minor had earnings, the injury shall be redressed on the basis of their amount, but not less than the tenfold value of the monthly calculation index established in accordance with the legislative acts.

After the minor begins his/her labour activity after the injury was inflicted to his/her health, he/she shall have the right to demand an increased amount of compensation for the injury on the basis of his/her earnings, but not less than the amount of labour remuneration, fixed according to the position he/she occupies or the earnings of the worker of the same qualification in the place of his/her work.

**Footnote. Article 939 as amended by the Law of the Republic of Kazakhstan No. 421-IV dated March 25, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 940. Redress of Injury Inflicted on Persons Who Have Suffered Injury as a Result of Breadwinner's Death**

1. In the event of the death of the injured person (breadwinner) the right to the redress of the injury shall belong to the disabled persons who were dependants of the deceased person or who had by time of his/her death the right to receive maintenance from him, the infant of the deceased person which was born after his/her death, one of the parents, the spouse or any other family member, regardless of his/her ability to work, who does not work and take the care for the dependent children, grandchildren, brothers and sisters who have not reached the age of 14 years or although have reached the said age but are in need of care by other people because of poor health according to the finding of medical organizations, the persons who were dependants of the deceased person and who have become disabled during five years after his/her death.

2. The persons, who were dependent on the deceased citizen and become disabled for five years after his/her death also shall have the right for compensation.

One of the parents, spouse or any other family member, who does not work and takes care of the persons specified in paragraph 1 of this Article that are the children, grandchildren, brothers and sisters of the deceased person and who has become disabled during the period of this case, shall retain the right to the redress of injury after the end of the care for these persons.

3. The following shall be compensated for the damage: to minors - up to the age of eighteen years; to pupils aged eighteen years and older - up to the end of studies in educational institutions by full-time education, but not more than twenty three years; to persons who have reached the retirement age established by the legislation of the Republic of Kazakhstan on pension provision - for life; to disabled persons - for the term of disability; to one of the parents, a spouse or other family member engaged in the care of dependent children, grandchildren, brothers and sisters of the deceased - up to the achievement of them.

**Footnote. Article 940 as amended by the Law of the Republic of Kazakhstan No. 421-IV dated March 25, 2011 (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 the day of its first official publication).**

## **Article 941. Amount of Redress for Injury Inflicted by Breadwinner's Death**

1. The injury shall be redressed for the persons who have the right to the redress of injury in connection with the breadwinner's death in the amount of that share of the earnings (income) of the deceased person, determined according to the rules of Article 938 of this Code, which they received or had the right to receive for his/her maintenance during his/her lifetime. When estimating redress for the injury inflicted on these persons it is necessary to include in the incomes of the deceased person, his/her pension, lifelong maintenance and other such payments.

2. When estimating the amount of redress for injury, the pensions granted to the persons in connection with the breadwinner's death, and also other pensions granted both before and after the breadwinner's death as well as the earnings, scholarship, pension payments shall not be counted.

3. The amount of redress fixed for each person who is entitled to the redress of injury in connection with the breadwinner's death shall not be subject to further recalculation, except for the cases of the birth of a baby after the breadwinner's death; awarding of redress payments to the persons who take care of the children, grandchildren, brothers and sisters of the deceased breadwinner.

The amount of redress may be increased in accordance with the legislative act or contract.

## **Article 942. Subsequent Changes in Amount of Redress for Injury**

1. The injured person who has partially lost his/her capacity for work shall have the right to demand a relevant increase in the amount of redress at any time from the person obliged to redress the injury, if the injured person's ability to work has decreased due to the injury to health as compared with his/her ability to work by the time of awarding to him/her the redress for the injury.

2. The persons obliged to redress the injury inflicted on the health of the injured person shall have the right to demand a corresponding reduction of the redress amount, if the injured person's ability to work has arisen as compared with that he/she had by the time of awarding to him/her the redress for the injury.

3. The injured person shall have the right to demand an increased amount of the redress for injury, if the person obliged to redress the injury has improved his/her property status, while the amount of redress has been reduced in accordance with paragraph 5 of Article 935 of this Code.

4. The court may reduce the amount of redress for the injury on the demand of the person who has inflicted the injury, if his/her property status has deteriorated in connection with disability or attainment of the pensionable age as compared with his/her status at the time of awarding redress of the injury (paragraph 5 of Article 935 of this Code).

### **Article 943. Increase in Redress of Injury In Connection with Increase in Cost of Living**

The amounts of redress of injury, paid to individuals in connection with the injury to the health or death of the injured person, shall annually increase in proportion to the average value of the predicted level of inflation.

**Footnote. Article 943 as amended by the Law of the Republic of Kazakhstan No. 311-V dated April 27, 2015 (shall be enforced upon the expiry of ten calendar days after its first official publication).**

### **Article 944. Payments for Redress of Injury**

1. The redress of the injury caused by the decrease in the capacity for work or by the death of injured person shall be effected by monthly payments.

Redress of the injury in terms of lost earnings to the injured person in the performance of his/her labour (official) duties shall be carried out for the period of establishing the degree of disability, but not exceeding the period of achievement by him/her of retirement age established by the legislation of the Republic of Kazakhstan on retirement insurance.

Herewith, the obligatory pension contributions to the unified accumulative pension fund in the amount and manner established by the Law of the Republic of Kazakhstan "On retirement insurance in the Republic of Kazakhstan" shall be withheld and transferred from the amounts of redress of the loss of earnings (income).

In the presence of valid reasons the court may, with due account of the possibilities of the inflictor of injury and on the demand of the individual who has the right to the redress of injury, adjudge the lump-sum payments due to the individual, but for not more than three years.

2. Recovery of additional expenses for the future may be carried out within the time-limits, defined on the basis of a medical expert examination, and also in case of necessity for the preliminary payment for the appropriate service and property (acquisition of a resort package, payment of fare, payment for special transport vehicles, etc.).

3. In cases, where the victim in accordance with the legislative acts may require the termination or early fulfillment of the obligation, the requirement shall be satisfied by way of capitalization of corresponding time payments.

**Footnote. Article 944 as amended by the Law of the Republic of Kazakhstan No. 311-V dated April 27, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication); dated August 2, 2015 No. 342-V (shall be enforced since January 1, 2016).**

### **Article 945. Redress of Injury in Case of Termination of Legal Entity**

1. In the event of the reorganization of a legal entity recognized in the statutory manner as responsible for the injury inflicted to human life or health, the obligation to make appropriate

payment shall be borne by its legal successor. Claims for the redress of injury shall be imposed to this successor.

2. In the event of the liquidation of a legal entity, recognized in the statutory manner as responsible for the injury inflicted to human life or health, the appropriate payments shall be capitalized for the payment to the victim according to the rules, established by the legislative or other legal acts.

3. In cases where the capitalization of payments cannot be made due to the lack or insufficiency of the property in possession of the legal entity under liquidation, the awarded sums shall be paid by the state to the injured person in the order established by the legislative acts.

4. After the period of capitalization of payments for redress of the injury, inflicted to life and health of the employees by the legal entities, which are liquidated due to bankruptcy, a citizen of the Republic of Kazakhstan shall be provided with a social assistance in the form of monthly payments in accordance with the procedure established by the Government of the Republic of Kazakhstan, herewith the amount of payments shall increase annually in proportion to the average value of the predicted level of inflation.

**Footnote. Article 945 as amended by the Law of the Republic of Kazakhstan № 424-IV dated March 30, 2011 (shall be enforced since January 1, 2011); dated April 27, 2015 No. 311-V shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 946. Reimbursement of Expenses on Burial**

Persons responsible for the injury caused by the death of the injured person shall be obliged to reimburse the necessary expenses on burial to the person who incurred these expenses.

The burial allowance received by the persons who incurred these expenses shall not be counted towards the compensation for the injury.

#### **Paragraph 3. Redress of the Injury Inflicted by Defects in Goods, Works or Services**

#### **Article 947. Grounds for Redress of Injury Inflicted by Defects in Goods, Works and Services**

Injury inflicted to the life, health or property of an individual or damage to the property of a legal entity in consequence of constructive, recipe or other defects of goods, works or services, and also in consequence of untrustworthy or insufficient information about goods (works, services) shall be subject to redress by the seller or the manufacturer (performer), regardless of their fault and of the fact whether the injured person has been in contractual relations with them or not. This rule shall be applied only in cases of the acquisition of goods (works or services) for purposes of consumption.

## **Article 948. Persons Responsible for Injury Inflicted Owing to Defects in Goods, Works and Services**

1. Injury inflicted owing to defects in goods shall be subject to redress by the seller or the manufacturer of goods at the discretion of the injured person.

2. Injury inflicted owing to defects in works and services shall be subject to redress by the performer.

3. Injury inflicted owing to the non-provision of full and trustworthy information about the qualities of goods (works, services) and instructions for their use shall be subject to redress in accordance with the rules of paragraphs 1 and 2 of this Article.

## **Article 949. Time limits of Redress of Injury Inflicted as a Result of Defects in Goods, Works or Services**

1. Injury inflicted owing to defects in goods, works or services shall be subject to redress, if it has appeared during the established period of serviceable life of goods (works, services), and if the serviceable life has not been established, during 10 years since the production of goods (works, services).

2. Regardless of the time of infliction, specified in paragraph 1 of this Article the injury shall be subject to redress if:

- 1) in violation of the requirements of legislative acts, serviceable life was not determined;
- 2) if the buyer (customer) was not warned about the necessary actions after the expiry of serviceable life and possible consequences for non-compliance with such actions.

## **Article 950. Grounds for Release from Liability for Injury Inflicted Owing to Defects in Goods, Works or Services**

A seller or a manufacturer of goods, an executor of work or service shall not be held liable only in case if he/she proves that the injury took place owing to force majeure or the violation by the consumer of the rules for using goods (results of work, service) or of their storage.

### **Paragraph 4. Compensation for Moral Damage**

## **Article 951. Compensation for Moral Damage**

1. Moral damage refers to the violation, derogation or deprivation of personal non-property benefits and rights of individuals, including mental or physical suffering (humiliation, annoyance, depression, anger, shame, despair, physical pain, lameness, discomfort, etc.) experienced (suffered, endured) by the victim as the result of the offense, committed against him/her, and in the event of his/her death as a result of such an offense – by the close relatives, spouse.

2. Moral damage shall be compensated by the inflictor in the presence of the guilt of the inflictor, except in cases provided for in paragraph 3 of this Article.

3. Moral damage shall be compensated regardless of the guilt of the inflictor of damage in cases where:

1) damage was caused to the life or health of an individual by a source of increased danger;

2) damage was caused to an individual as a result of his/her illegal conviction, illegal criminal prosecution, illegal application of confinement under guard as a preventive measures, house imprisonment or written undertaking not to leave the place of residence, illegal imposition of an administrative penalty in the form of arrest, illegal placement in a psychiatric or other medical institution;

3) damage was caused by the spread of information denigrating the honour, dignity and business standing;

4) in other cases provided for by the legislative acts.

4. Moral damage, caused by the actions (inaction) that violate the property rights of persons shall not be compensated, except in cases provided by the legislative acts.

**Footnote. Article 951 as amended by the Law of the Republic of Kazakhstan No.421-IV dated March 25, 2011 shall be enforced upon expiry of ten calendar days after its first official publication); No. 49-VI dated February 27, 2017 shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 952. Amount of Compensation for Moral Damage**

1. Moral damage shall be compensated in monetary form.

2. When determining the amount of moral damage, the subjective assessment by the injured person of the moral damage shall be taken into account as well as the objective data indicating the degree of moral and physical suffering of the injured person or in the event of the death of the injured person as a result of the offense committed against him/her, the assessment given by his/her close relatives, spouse: vital importance of the benefits that have been the objects of encroachment (life, health, honour, dignity, freedom, inviolability of residence, etc.); severity of consequences of offense (killing of close relatives, causing of bodily injuries resulting in disability, imprisonment, forfeiture of work or home, etc.); nature and distribution of false and damaging information; living conditions of the injured person (service, family, household, material, health conditions, age, etc.), other circumstances that deserve attention.

3. Moral damage shall be compensated, regardless of the reimbursable damage of the property.

**Footnote. Article 952 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated 27.02.2017 (shall be brought to effect upon expiry of ten calendar days after its first official publication).**

## **Chapter 48. Obligations due to Unjust Enrichment**

### **Article 953. Obligation to Return Property Acquired due to Unjust Enrichment**

1. A person (purchaser) who has acquired or seized property without the grounds, established by law or transaction (due to unjust enrichment), at the expense of another person (injured) shall be obliged to return to the latter the property acquired or seized unjustly (due to unjust enrichment), except for the cases, provided for by Article 960 of this Code.

2. The obligation, established by paragraph 1 of this Article, may also arise, if the grounds on which the property was acquired or seized have ceased to exist.

3. The rules, provided for by this Chapter, shall be applicable regardless of the fact whether unjust enrichment resulted from the behaviour of the purchaser of property, the injured person himself/herself, third persons or was the result of events.

### **Article 954. Correlation of Claims for Acquired due to Unjust Enrichment with Other Claims for Protection of Civil Rights**

Unless otherwise provided for by this Code, other legislative acts and does not arise from the essence of corresponding relations, the rules, specified in this Chapter, shall be applied to the following claims:

- 1) for the return of the executed under an invalid transaction;
- 2) for the reclamation of property by its owner from the illegal possession of other people;
- 3) of one party in the obligation to the other party for the return of the executed in connection with this obligation;
- 4) for the redress of harm, including that inflicted by the dishonest behaviour of the enriched person.

### **Article 955. Return of Property Acquired due to Unjust Enrichment in Kind**

1. Property acquired due to the unjust enrichment of the purchaser shall be returned to the injured person in kind.

2. The purchaser shall be liable to the injured person for any shortage (including accidental) or deterioration of the property acquired or obtained due to unjust enrichment, which has taken place after he/she knew or should have known about the unjust enrichment. Up to this moment he/she shall be responsible only for intent or gross negligence.

### **Article 956. Compensation of Value of Unjust Enrichment**

1. If it is impossible to return in kind the property acquired or obtained due to unjust enrichment, the purchaser shall compensate to the injured person for the actual value of the



property at the time of its acquisition, and also for the losses, caused by the subsequent change in the value of property, if the purchaser has not compensate for its value immediately after he has known about unjust enrichment.

2. A person who temporarily used the property of other people without a reasonable basis (without the intention to acquire it) or used the services of other people shall compensate to the injured person all that was saved as a result of such use at the price prevailing at the time when this use ended and in the place where he/she used it.

#### **Article 957. Consequences of Unjust Transfer of Right to Another Person**

A person who has assigned claims by way of cession or the right belonging to him/her to another person in other way on the basis of non-existent or invalid obligation shall have the right to demand the restoration of the former position, including the return to him/her of the documents certifying the transferred right.

#### **Article 958. Reimbursement of Lost Income to Injured Persons**

1. A person who has unjustly received or obtained property shall be obliged to return it to the injured person or reimburse all incomes which he/she derived or should have derived from this property since the time when he/she knew or should have known about unjust enrichment .

2. A penalty for the use of money of other people shall be subject to charge for the amount of unjust enrichment since the time when the purchaser knew or should have known about the unjust receipt or obtainment of money.

#### **Article 959. Reimbursement of Expenses for Property Subject to Return**

When returning the property unjustly received or obtained (Article 955 of this Code) or reimbursement of its value (Article 956 of this Code), the purchaser shall have the right to demand the injured person to reimburse the necessary expenses incurred for the maintenance and preservation of the property from the time he/she is obliged to return income (Article 958 of this Code), with the offset of the received benefits. The right to reimburse expenses shall be lost in cases where the purchaser intentionally withheld the property to be returned.

#### **Article 960. Unjust Enrichment Not Subject to Return**

The following property shall not be subject to return as unjust enrichment when:

1) the property transferred for the fulfillment of the obligation prior to the time of fulfillment, unless otherwise provided for by the obligation;

2) the property transferred for the fulfillment of the obligation upon the expiry of the period of limitation;

3) amount of money and other property, provided to the citizen, in the absence of dishonesty on his/her part, as means of existence (wages, royalties, compensation for damages to life or health, pension, child support, etc.) and used by the purchaser;

4) amount of money and other property, given for the fulfillment of a non-existent obligation, if the purchaser proves that the person who demands the return of property knew about the absence of the obligation or granted property for charity purposes.

## **Section 5**

### **Intellectual property right**

#### **Chapter 49. General provisions**

#### **Article 961. Objects of Intellectual Property Right**

1. The objects of intellectual property right shall be defined as:

1) results of intellectual creative activity;  
2) means of individualization of the participants of civil transactions, goods, works or services.

2. The results of intellectual creative activity are:

1) scientific, literary and artistic works;  
2) performances, production, phonograms and transmission of broadcasting and cable broadcasting;  
3) inventions, utility models, industrial designs;  
4) breeding achievements;  
5) integrated circuit layout-designs;  
6) undisclosed information, including production secrets (know-how);  
7) other results of intellectual creative activity in the cases, provided by this Code or other legislative acts.

3. Means of individualization of the participants of civil transactions, goods, works and services are:

1) brand names;  
2) trademarks (service marks);  
3) appellation of goods origin (indication of origin);  
4) other means of individualization of other participants of civil transactions, goods and services in the cases, provided by this Code and other legislative acts.

**Footnote. Article 961 as amended by the Law of the Republic of Kazakhstan No. 90 dated November 22, 2005 (the order of enforcement see in Art. 2).**

#### **Article 962. Grounds for Intellectual Property Rights**

Intellectual property rights shall arise by virtue of their creation or as a result of legal protection by the authorized state body in the cases and in the procedure provided by this Code and other legislative acts.

#### **Article 963. Personal Intellectual Non-Property and Property Rights**

1. The authors of the results of intellectual creative activity shall possess personal non-property and property rights in respect of these results.

The author shall enjoy personal non-property rights, regardless of his/her property rights, and shall reserve them in case of transfer of his/her property rights to the results of intellectual creative activity to another person.

2. Owners of the right to the means of individualization of the participants in civil transactions, goods or services (hereinafter - the means of individualization) shall enjoy the property rights in respect of these means.

3. Right of the author for the results of intellectual creative activity (copyright) shall be a private non-property right and belong only to the person, whose creative work created the result of intellectual creative activity.

The right of authorship shall be inalienable and unassignable.

If the result is created by joint work of two or more persons, they shall be considered as co-authors. For certain objects of intellectual property, legislation may limit the persons, who are considered as co-authors of work as a whole.

#### **Article 964. Exclusive Rights to Objects of Intellectual Property**

1. The property right of the owner to use an object of intellectual property at his/her own discretion by any means shall be recognized as exclusive rights to results of intellectual creative activity or means of individualization.

Using the object of exclusive rights by other persons shall be carried out with the consent of the holder of the right.

2. The holder of the exclusive rights to intellectual property shall have the right to transfer this right to another person in whole or in part, permit to use an object of intellectual property and dispose of it in any other way, unless it does not conflict with the rules of this Code and other legislative acts.

3. Limitations of exclusive rights, recognition of these rights as invalid and their termination (cancellation) shall be permitted only within the procedure prescribed by this Code and other legislative acts.

**Footnote. Article 964 as amended by the Law of the Republic of Kazakhstan No. 300-V dated April 07, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 965. Transfer of Exclusive Rights to Another Person**

1. Exclusive rights to intellectual property, unless otherwise is provided by this Code or other legislative acts, can be transferred by their holder in whole or in part under the contract to another person, as well as inherited by way of universal succession and as a result of reorganization of the legal entity – holder of the right.

Transfer of exclusive rights shall not restrict the right of authorship and other non-property rights. Terms of the contract on transfer or limitation of such rights shall be null and void.

2. The rules of the license contract shall be applied to the contract, which is providing the transfer of exclusive rights to another person during its validity for a limited period (Article 966 of this Code).

**Footnote. Article 965 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 966. License Contract**

1. Under the license contract, one party being the holder of the exclusive right to the result of an intellectual creative activity or means of individualization (licensor) undertakes to grant to the other party (licensee) the right to use the result or means within the limits set out in the contract.

The license contract shall be assumed as non-gratuitous.

2. The license contract may provide for granting the licensee the following:

1) the right to use the item of intellectual property with retaining the ability of the licensor to use it and the right to use it or grant a license to other persons (a simple, non-exclusive license);

2) the right to use the item of intellectual property with retaining the ability of the licensor to use it, but without the right to grant a license to third parties (exclusive license);

3) other conditions for use the item of intellectual property, which do not contradict the legislative acts.

Unless otherwise provided in the license contract, the license is deemed to be simple (non-exclusive).

3. The contract on the provision by the licensee of the right to use an object of intellectual property to another person shall be recognized as a sublicense contract. The licensee is entitled to conclude a sub-license contract only in the cases stipulated by the license contract.

The licensee shall be liable before the licensor for the actions of the sublicensee, unless otherwise provided by the license contract.

**Footnote. Article 966 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Article 967. Contrat on Creation and Use Results of Intellectual Creative Activity**

1. The author can accept contractual obligation to create the work, invention or other results of intellectual creative activity and provide the customer, who is not his/her employer, with the exclusive rights to use it.

2. The contract, provided in paragraph 1 of this Article, shall determine the nature of the result, which shall be the creation of intellectual creative activity, as well as purposes or methods of its use.

3. Terms of the contract, which are limiting the right of the author to create the results of intellectual creative activity of a certain type or in a particular area shall be null and void.

**Footnote. Article 967 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Article 968. Exclusive Right and Right of Ownership**

Exclusive rights to the results of intellectual creative activity or means of individualization, shall exist independently of the right of ownership to the material object, in which such a result or means of individualization are expressed.

## **Article 969. Effective Term of Exclusive Rights**

1. Exclusive rights to the items of intellectual property shall be effective for the period provided by this Code or other legislative acts.

The legislative acts may provide for the extension of such period.

2. Personal non-property rights to the results of intellectual creative activity shall be effective for indefinite period.

3. In cases stipulated by the legislative acts, the force of the exclusive right may be terminated due to its non-use for a certain time.

## **Article 970. Protection of Exclusive Rights**

1. Protection of exclusive rights shall be carried out in the manner provided for in Article 9 of this Code. Protection of exclusive rights can be carried out through:

1) seizure of material objects with the use of which exclusive rights were violated, and material objects created as a result of such a violation;

2) mandatory publication of the violation, including the information about the holder of the violated right;

3) other means provided by the legislative acts.

2. In case of violation of contracts on the use of the results of intellectual creative activity and means of individualization, the general rules on liability for violation of obligations ( Chapter 20 of this Code) shall be applied.

## **Chapter 50. Copyright law**

### **Article 971. Copyright Works (Copyright Objects)**

1. Copyright law applies to scientific, literary and artistic works, which are the results of creative activity, regardless of their purpose, content and dignity, as well as the mode or form of their expression.

2. Copyright applies to both published (promulgated, released, issued, publicly performed, publicly displayed), and the unpublished works, which are existing in any objective form:

- 1) written (manuscript, typewriting, musical notation, etc.);
- 2) oral (public announcement, public performance, etc.);
- 3) sound or video recording (mechanical, digital, videotape, optical, etc.);
- 4) image (drawing, design, painting, draft, scheme, film-, tele-, video-, or photo frame, etc.);
- 5) three-dimensional (sculpture, sample, layout, construction, etc.);
- 6) other forms.

3. Part of the work (including its title, names of the characters), which has the features specified in paragraph 1 of this Article, and can be used independently, shall be the copyright object.

4. Copyright law shall not apply to the ideas, concepts, principles, methods, systems, processes, discoveries and facts.

**Footnote. Article 971 as amended by the Law of the Republic of Kazakhstan No. 90 dated November 22, 2005 (the order of enforcement see in Art. 2).**

### **Article 972. Types of Copyright Objects**

1. Copyright objects are:
- 1) literary works;
  - 2) dramatic, musical and dramatic works;
  - 3) scenario;
  - 4) works of choreography and pantomime;
  - 5) musical works, with or without a text;
  - 6) audio-visual works;
  - 7) painting, sculpture, graphic and other works of art;
  - 8) works of applied art;
  - 9) works of architecture, urban construction, and landscape architecture;
  - 10) photographic works and works, produced by methods similar to photography;
  - 11) maps, plans, layouts, illustrations and three-dimensional works relative to geography, topography and other sciences;
  - 12) computer programs;

13) other works.

2. Protection of computer programs shall apply for all types of software (including operating systems), which can be expressed in any language, in any form, including source text and object code.

3. The copyright objects shall also include:

1) derivative works (translations, adaptations, annotations, reports, curriculum vitae, reviews, dramatizations, musical arrangements and other transformations of scientific, literary and artistic works);

2) collections (encyclopedias, anthologies, databases) and other composite works, representing by selection and (or) location of materials the result of creative work.

Derivative and composite works shall be protected by copyright, regardless of whether the objects of copyright are the works on which they are based, or they include them.

**Footnote. Article 972 as amended by the Law of the Republic of Kazakhstan No. 90 dated November 22, 2005 (the order of enforcement see in Art. 2); dated April 7, 2015 No. 300-V ( shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 973. Legal Regulation of Copyright Relations**

Copyright relations shall be regulated by this Code and other legislative acts on copyright and neighboring rights, and in the cases provided by them by other legislative acts.

### **Article 974. Works, That Are Not Objects of Copyright**

Works, that are not objects of copyright:

1) official documents (laws, court decisions, other texts of legislative, administrative, judicial or diplomatic nature), and their official translations;

2) state symbols and signs (flags, emblems, orders, banknotes, and other state symbols and signs);

3) works of folk art;

4) announcements about events and facts, which have an exclusively informative nature.

### **Article 975. Rights to Draft Official Documents, Draft Designs of State Symbols and Signs**

1. Copyright for draft official documents, state symbols and signs shall belong to the person, who created the project (developer).

Developers of draft official documents, draft designs of symbols and signs shall have the right to publish such projects, if it is not prohibited by the body, on behalf of which the development was carried out. When publishing the draft, developers may point out their names.

2. Draft can be used by the competent authority for the preparation of an official document without the consent of the developer, if the draft has been published by the author or sent by him/her to the appropriate authority.

When preparing official documents, state symbols or marks on the basis of a draft, amendments and modifications may be made thereto at the discretion of the body preparing the official document, state symbol or mark.

3. After the adoption of the draft by the competent authority, it can be used without the name of the developer, and without payment of royalties.

**Footnote. Article 975 as amended by the Law of the Republic of Kazakhstan dated November 22, 2005 No. 90 dated November 22, 2005 (the order of enforcement see in Art. 2)**

### **Article 976. Copyright Mark**

1. For the purpose of warning of his/her exclusive right, the right holder shall have to use a copyright mark that is placed on each copy of the work and is composed of the following components:

- 1) the Latin letter "C" in a circle;
- 2) the name of the right holder;
- 3) the year of first publication of the work.

2. Unless proven otherwise, the holder of exclusive copyright shall be considered the person designated in the copyright mark.

### **Article 977. Personal Non-Property Rights of Author**

1. The author of the work shall have the following non-property rights:

- 1) the right to be recognized as the author of the work and to require such recognition in use, eliminating attribution of others to the same work (copyright);
- 2) the right to use the work under his/her own name, under a pseudonym or anonymously (right of author's name);
- 3) the right to make changes or additions to his/her work and to protection of the work, including its name, from making by anyone without the consent of the author the changes and additions in the publication, public performance or other use of the work (the right to inviolability of the work).

Providing the author's work in the publication with the illustrations, forewords, afterword, comments or any explanations, without the author's consent shall be prohibited.

After the death of the author, the protection of the inviolability of the work shall be carried out by the person specified in the will, and in the absence of such instructions, by the heirs of the author, as well as by the persons who are under copyright protection in accordance with the legislative acts;



4) the right to open access to the work to an indefinite number of persons (right to public disclosure), with the exception of works created in the order of performance of official duties or official tasks of the employer.

2. The author shall have the right to reject an earlier decision to disclose the work (right of withdrawal), in condition to compensate to the user damages, caused by such decision, including lost profits. If the work has already been disclosed, the author is obliged to give public notice about its withdrawal. However, he/she is entitled to withdraw from circulation earlier produced copies of the work at his/her own expense.

Provisions of this paragraph shall not apply to service works.

3. Author's agreement with any person or his/her claim on refusal to exercise the moral rights shall be null and void.

**Footnote. Article 977 as amended by the Law of the Republic of Kazakhstan No. 537-IV dated January 12, 2012 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 978. Property Rights of Author**

1. The author shall have the exclusive right to use the work in any form or by any means.

2. The exclusive rights of the author to use the work means the right to perform, authorize or prohibit the following actions:

1) to copy the work (copyright);

2) to distribute the original or copies of the work by any means: to sell, modify, rent (lease), perform other operations, including in open information and communication network (distribution right);

3) to display the work in public (right of public display);

4) to perform the work in public (right of representation and performance);

5) to reproduce the work in public, including broadcasting or through cabled (right to a public announcement);

6) to broadcast the work on air (broadcast on radio and television), including broadcast via cable or satellite (right of broadcast on air);

7) to translate the work (the right of translation);

8) to adapt, arrange the work or alter the work using other methods (right to alter);

9) to practically implement urban planning, architecture, design project;

10) to exercise other actions, which are not contradict the legislative acts.

**3. Excluded by the Law of the Republic of Kazakhstan No. 300-V dated April 7, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).**

4. If copies of a legally published work have been introduced into civil transactions as they were sold, then their subsequent distribution shall be allowed without the author's

consent and without payment of remuneration, except for cases stipulated by the legislative acts of the Republic of Kazakhstan.

5. The work shall be considered to be used, regardless of whether it is implemented for the purpose of generating income, or its implementation was not aimed at it.

6. Practical application of the provisions that constitute the content of the work (inventions, other technical, economic, organizational, etc. decisions) shall not constitute the use of the work in the terms of copyright.

**Footnote. Article 978 as amended by the Law of the Republic of Kazakhstan No. 90 dated November 22, 2005 (the order of enforcement see in Art. 2 of the Law); No. 537-IV dated January 12, 2012 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 300-V dated April 7, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 979. Depositing of Works**

1. The depositing of manuscripts of works, other works on a tangible medium, including on machine media, shall be recognized as the use of the work, if such a deposit is made in the open repository allowing access of other people (depository) and admits receipt by a person of a copy of the work under the contract with the depository.

2. The depositing of the work shall be carried out on the basis of the contract of the right holder with the depository, establishing the conditions for the use of the work. Such contract and contract of depository with the user shall be public (Article 387 of this Code).

#### **Article 980. Force of Copyright In Territory of the Republic of Kazakhstan**

1. The copyright to the work that was first promulgated on the territory of the Republic of Kazakhstan or unpublished, but whose original is kept in the territory of the state in any objective form, shall be valid on the territory of the Republic of Kazakhstan. In this case, the copyright shall be recognized for the author and (or) his/her heirs, as well as other legal successors of the author, regardless of their nationality.

2. Copyright shall be also recognized for the citizens of the Republic of Kazakhstan, as well as their successors, even if the work was published for the first time, or is kept in any objective form on the territory of a foreign state.

3. When granting protection of copyright to the right holder in accordance with international contracts, the fact of promulgation of the work on the territory of a foreign state shall be determined in accordance with the provisions of the relevant international contract.

4. In order to protect the work in the territory of the Republic of Kazakhstan, the author of the work shall be determined by the laws of the state, where the work was first protected.

#### **Article 981. Effect of Copyright**

The work copyright shall be effective from the moment an objective form is given to the work that is understandable for third parties, regardless of its publication. The copyright to the oral work shall be valid from the moment it was promulgated to third parties.

If the work is not covered by Article 980 of this Code, the work copyright shall be protected from the first publication of the work, if it is carried out in the Republic of Kazakhstan.

#### **Article 982. Duration Of Copyright**

1. Copyright shall be effective for the life of the author and seventy years after his/her death, as from the first of January of the year, following the year of the death of the author.

2. Copyright for the work created in co-authorship, shall be effective for the life of co-authors and seventy years after the death of the last of the authors.

3. Copyright for the work, which was for the first time published under a pseudonym or anonymously, shall be effective for seventy years from the first of January of the year following the year of publication of the work.

If within that time an anonymous or pseudonym are disclosed, the terms established by paragraph 1 of this article shall apply.

4. During the time, specified in paragraph 1 of this Article, the copyright shall belong to the author's heirs and shall be inherited, belong to successors, who are entitled under the contract with the author, his (her) heirs and further successors.

5. Copyright to the work, which is first published over thirty years after the author's death, shall be valid for seventy years after its release to the public, as from the first of January of the year, following the year of publication of the work.

6. Authorship, the author's name and inviolability of the work shall be protected for indefinite term.

**Footnote. Article 982 as amended by the Law of the Republic of Kazakhstan No. 90 dated November 22, 2005 (the order of enforcement see in Art. 2 of the Law).**

#### **Article 983. Transition of Work to Public Domain**

1. After expiration of the copyright to the work, it shall become public property.

2. Works in the public domain may be freely used by any person, without payment of royalties. The right of authorship, the right of author's name and the right to integrity of the work should be respected.

**Footnote. Article 983 as amended by the Law of the Republic of Kazakhstan No. 90 dated November 22, 2005 (the order of enforcement see in Art. 2).**

#### **Article 984. Copyright Management**

1. The right holder shall have the right to exercise his/her rights individually, at his/her own discretion. Other persons may manage copyright only with the consent of the right holder and the powers granted to him/her, except the rights provided by Article 977 of this Code, when an authorized agent is the legal representative.

2. In accordance with the procedure established by the legislative acts, owners of copyright and related rights may create organizations that are entrusted with the management of copyright and related rights.

## **Chapter 51. Allied Rights**

### **Article 985. Objects of Allied Rights**

Allied rights shall apply to productions, performances, sound recordings, programs of broadcasting and cable-services organisations, regardless of the purpose, contents and value, as well as the mode or form of its expression.

### **Article 986. Subjects of Allied Rights**

1. The subjects of allied rights shall be performers, sound recording producers and broadcasting and organizations of broadcasting and cable broadcasting.

2. The producer of the sound recording, organizations of broadcasting and cable broadcasting shall exercise the rights provided for in this chapter within the rights obtained under the contract with the performer and the author of the work recorded on the sound recording or transmitted over the air or by cable.

3. The performer shall exercise the rights, provided by this Chapter, in respect of rights of the authors of the performed work.

4. For the purposes of the occurrence and exercising allied rights, they neither need registration nor any other formalities need be completed.

5. For the purpose of warning of his/her exclusive right, the manufacturer of a sound recording and the performer, and also another owner of the exclusive right to the sound recording or the performance is entitled to use a mark of protection of allied rights that is placed on each original or copy of the sound recording and/or on each case containing it, the mark being composed of the following three elements:

- 1) the letter "P" in a circle;
- 2) the name of the holder of the exclusive rights;
- 3) the year of first publication of record of performances and phonograms.

6. Unless proves otherwise, the phonogram producer shall be an individual or legal entity, and its name is indicated on the sound recording, and (or) the case containing it.

**Footnote. Article 986 as amended by the Law of the Republic of Kazakhstan No. 90 dated November 22, 2005 (the order of enforcement see in Art. 2); No. 300-V dated April 7, 2015 ( shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Article 987. Effect of Allied Rights**

1. Right of the performer to the performance, which is took place in the territory of the Republic of Kazakhstan for the first time, shall be effective in the territory of the Republic of Kazakhstan. In this case, the right shall be recognized for the performer and his/her heirs, as well as other legal successors of the performer, regardless of nationality.

The right of the performer shall be also recognized for him/her and his/her successors in cases, where the performance was first performed in a foreign country.

2. The rights of producers of sound recordings shall be effective in the territory of the Republic of Kazakhstan, if this record was performed in public or copies distributed in public for the first time in the Republic of Kazakhstan.

The rights of producers of sound recordings shall be also recognized for the citizens of the Republic of Kazakhstan or legal entities, which have their place of residence or place of stay in the territory of the Republic of Kazakhstan.

3. The rights of broadcasting or cable services organization shall be recognized for them in case, when the organization is officially located in the territory of the Republic of Kazakhstan and broadcasts from transmitters located in the territory the Republic of Kazakhstan.

4. Rights of other foreign performers, sound recording producers, broadcasting or cable services organization shall be protected in the Republic of Kazakhstan in accordance with the international contracts, ratified by the Republic of Kazakhstan.

**Footnote. Article 987 as amended by the Law of the Republic of Kazakhstan No. 90 dated November 22, 2005 (the order of enforcement see in Art. 2).**

## **Article 988. Regulation of Rights of Subjects of Allied Rights**

The scope and content of exclusive rights and other rights of the performer, sound recording producer, broadcasting or cable services organizations, as well as cases and extent of the exclusive rights restrictions, specified subjects and liability for violations shall be governed by the legislative acts.

**Footnote. Article 988 as amended by the Law of the Republic of Kazakhstan No. 90 dated November 22, 2005 (the order of enforcement see in Art. 2).**

## **Article 989. Effective Terms of Allied Rights**

1. Allied rights in respect of the performer shall be effective for seventy years after the first performance. Performer's rights to the name and for protection of performance from distortion shall be protected for an indefinite period.

2. Allied rights in respect of the sound recording producer shall be effective for seventy years after the first publication of the sound recording or over seventy years after its first recording, if the sound recording has not been promulgated during this period.

3. Allied rights to the broadcasting organization shall be effective within seventy years after the first broadcasting.

4. Allied rights to the cable services organization shall be effective within seventy years after the first cable transmission.

5. Calculation of periods of time, provided by paragraphs 1-4 of this Article, shall begin from the first January of the year, following the year when was the legal fact, which is base for beginning of the period.

**Footnote. Article 989 as amended by the Law of the Republic of Kazakhstan No. 90 dated November 22, 2005 (the order of enforcement see in Art. 2).**

#### **Article 990. Rights of Performers, Sound Recording Producers, Broadcasting or Cable Services Organization, Who are Foreign Citizens or Foreign Legal Entities**

The rights of performers, sound recording producers, foreign citizens or foreign legal entities, who are foreign citizens or foreign legal entities, if they carry out first production, performance, recording or broadcast outside the Republic of Kazakhstan, shall act in its territory in accordance with the international contracts, ratified by the Republic of Kazakhstan

**Footnote. Article 990 as amended by the Law of the Republic of Kazakhstan No. 90 dated November 22, 2005 (the order of enforcement see in Art. 2).**

### **Chapter 52. Right to Invention, Utility Model,**

#### **Industrial Design**

#### **Article 991. Conditions for Legal Protection of Invention, Utility Model, Industrial Design**

1. Rights to an invention, utility model and industrial design shall be protected by a patent

2. The invention which is granted legal protection shall be recognized as a technical solution, when it has an inventive step and industrial applications.

3. The utility model which is granted legal protection shall be recognized as a technical solution, when it has an inventive step and industrial applications.

4. The industrial design which is granted legal protection shall be recognized as a technical solution, when it has an inventive step and industrial applications.

5. Requirements for invention, utility model, industrial design, and in accordance with them the right to receive a patent and the procedure of issuing it by the authorized state body ( hereinafter - the patent body (organization) shall be established by "Patent Law of the Republic of Kazakhstan".

6. The list of non-patentable technical solutions, constructive performance of production means and consumer goods, art and design solutions of products shall be determined by the legislative acts.

Footnote. Article 991 as amended by the Law of the Republic of Kazakhstan No. 237 dated March 2, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 537-IV dated January 12, 2012 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 300-V dated April 7, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).

### **Article 992. Right to Use Invention, Utility Model and Industrial Design**

1. The patent holder shall have the exclusive right to use at his (her) discretion a patent invention, utility model, industrial design, including the right to produce a product with the use of secure solutions, apply protected by innovation patent or patent technological processes in own manufacture, sell or offer for sale the products, containing secure solutions, and import the appropriate product.

2. Other persons are not entitled to use the invention, utility model, industrial design without the permission of the patent owner, except in cases, where such use in accordance with this Code or other legislation does not violate the rights of the patent holder.

3. Violation of the exclusive rights of the patent owner shall be recognized as unauthorized manufacture, use, import, offer for sale, sale, other introduction into civilian circulation or storage for this purpose of a product manufactured using a patented invention, utility model or industrial design, as well as the use of a method protected by the patent for invention, or putting into circulation or storage for this purpose of a product manufactured directly by the method protected by the patent for invention.

The product shall be recognized as manufactured by a patented process, unless otherwise is proved.

Footnote. Article 992 as amended by the Law of the Republic of Kazakhstan No. 237 dated March 2, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 300-V dated April 7, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).

### **Article 993. Disposal of Right to Patent**

Footnote. Heading of the Article 993 as amended by the Law of the Republic of Kazakhstan No. 300-V dated April 7, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).

The right to obtain a patent, rights arising from the registration of the application, the right to ownership of patents and rights arising from the patent may be transferred in whole or in part to another person.

**Footnote.** Article 993 as amended by the Law of the Republic of Kazakhstan No. 237 dated March 2, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 300-V dated April 7, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 994. Right of Authorship**

1. Author of an invention, utility model or industrial design shall have the right of authorship and the right to assign the invention, utility model, industrial design a special name

2. The right of authorship and other personal rights to inventions, utility models, industrial designs shall arise from the moment of rights, based on the title of protection.

3. The author of the invention, utility model and industrial design, legislative acts may be allocated special rights, privileges and benefits of a social nature.

4. The person, who is named in the application as the author, shall be considered the author, until otherwise is proved. Only the facts and circumstances, existed before the law may be involved as evidence.

**Footnote.** Article 994 as amended by the Law of the Republic of Kazakhstan No. 237 dated March 2, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 300-V dated April 7, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 995. Co-Authors of Invention, Utility Model, Industrial Design**

1. Relationships of co-authors of the invention, utility model and industrial design shall be determined by the agreement between them.

2. Uncreative promotion to the creation of an invention, utility model or industrial design (technical, organizational or other assistance, assistance to registration of rights, etc.) shall not lead to co-authorship.

#### **Article 996. Service Inventions, Utility Model, Industrial Design**

The right to patent for invention, utility model, industrial design, created by an employee in the performance of his (her) duties or specific tasks of the employer (employee's invention), shall belong to the employer, unless otherwise provided by the contract between them.

**Footnote.** Article 996 as amended by the Law of the Republic of Kazakhstan No. 300-V dated April 7, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).



## **Article 997. Author's Right to Redress for Service Invention, Utility Model, Industrial Design**

The amount, terms and manner of payment of the compensation payable to the author for service invention, utility model, industrial design shall be determined by agreement between him (her) and the employer. If it is impossible to proportionate the author's and the employer's contribution in creating invention, utility model or industrial design, the author shall recognize the right to half of the benefit, which the employer received or should have received.

**Footnote.** Article 997 as amended by the Law of the Republic of Kazakhstan No. 382-V dated October 31, 2015 (shall be enforced upon the expiry of ten calendar days after its first official publication).

## **Article 998. Effective Term of Patent in the Territory of the Republic of Kazakhstan**

**Footnote.** Heading of Article 998 as amended by the Law of the Republic of Kazakhstan No. 300-V dated April 7, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).

1. The patents for invention, utility model and industrial design, issued by the expert commission, shall be effective in the territory of the Republic of Kazakhstan.

2. Patents, which are issued in a foreign country or by an international organization, shall be effective in the territory of the Republic of Kazakhstan, in the cases stipulated by the international treaties of the Republic of Kazakhstan.

3. Foreign citizens and foreign legal entities or their legal successors shall have the right to get patents for invention, utility model and industrial design in the Republic of Kazakhstan, if the solution claimed in the prescribed manner meets the requirements of the legislative acts of the Republic of Kazakhstan for inventions, utility models or industrial designs.

**Footnote.** Article 998 as amended by the Law of the Republic of Kazakhstan No. 237 dated March 2, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 300-V dated April 7, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 161-VI dated June 20, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).

## **Article 999. Effective Term of Patent**

1. The patent shall be effective from the date of filing an application to the expert organization and shall remain in effect subject to the requirements established by the laws of the Republic of Kazakhstan:

1) patent for invention – for twenty years.

In relation to an invention related to a medicine, a pesticide, for the use of which it shall be required to obtain permits in the manner prescribed by the Legislation of the Republic of Kazakhstan on permits and notifications, the effective term of the exclusive right and the

patent certifying this right shall be extended on an application of the patent holder, but not more than for five years.

The said term shall be extended by the period that has elapsed since the filing of the patent application for invention to the date of receipt of the first permission to use the invention, less five years;

2) patent for utility model – for five years. The effective term of the patent may be extended by an expert organization at the request of the patent holder, but by the term not exceeding three years;

3) patent for industrial design – for fifteen years. The effective term of the patent may be extended by an expert organization at the request of the patent holder, but by the term not exceeding five years.

2. Protection of invention, utility model, industrial design shall be effective from the date of filing an application to the expert organization. Protection of the rights can be exercised after the issue of a patent. In case of refusal to issue a patent, protection of the rights shall be deemed as not effective.

3. Priority of invention, utility model, industrial design shall be determined in the procedure established by the legislative acts of the Republic of Kazakhstan.

4. In the event of termination or early termination of the exclusive right the invention, utility model or industrial design shall pass into to the public domain.

5. Invention, utility model or industrial design that have passed into the public domain may be freely used by any person without any consent or permission and without paying remuneration for use.

**Footnote. Article 999 as amended by the Law of the Republic of Kazakhstan No. 300-V dated April 7, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication) ; dated 28.10.2019 No. 268-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).**

#### **Article 1000. Alienation (Transfer) of Exclusive Right to Invention, Utility Model, Industrial Design**

Contracts on alienation (transfer) of the exclusive right to invention, utility model, industrial design shall be concluded in writing. Alienation of the exclusive right shall be subject to registration in the manner determined by the authorized state body.

Non-observance of the written form and (or) the provision requiring the state registration shall cause the invalidity of the contract.

Cancellation of the registration shall be carried out in accordance with the Law of the Republic of Kazakhstan "Patent Law of the Republic of Kazakhstan".

Footnote. Article 1000 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

#### **Article 1001. License Contract for Use of Invention, Utility Model, Industrial Design**

Footnote. Heading of Article 1001 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

1. License contract and sub-license contract for use of the invention, utility model and industrial design shall be concluded in writing. License contract for use of the invention, useful model, industrial design shall be subject to registration in the manner determined by the authorized state body.

Non-observance of the written form and (or) the provision requiring the state registration shall cause the invalidity of the contract.

Cancellation of the registration shall be carried out in accordance with the Law of the Republic of Kazakhstan "Patent Law of the Republic of Kazakhstan".

2. The content of the license contract should comply with the requirements, stipulated by Article 966 of this Code.

Footnote. Article 1001 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after the date of its first official publication); No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

#### **Article 1002. Open License**

1. The holder of a patent may file an application to the expert organization on the possibility of granting any person the right to use the invention, utility model or industrial design (open license).

2. The patent holder shall conclude a contract on payments with a person expressing his/her desire to use an open license. Disputes on the terms of the contract shall be resolved in court.

An application of the patent holder to grant the right to an open license shall be irrevocable.

Footnote. Article 1002 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

#### **Article 1003. Liability for Infringement of Patent**

Footnote. Heading of Article 1003 as amended by the Law of the Republic of Kazakhstan No. 300-V dated April 7, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).

At the request of the patent holder, the patent infringement should be stopped, and the infringer shall reimburse the losses to the patent holder (Article 9 of this Code). Instead of incurred losses, the patent holder may recover from the infringer the income, which he/she received as a result of improper use of the invention, utility model and industrial design.

Footnote. Article 1003 as amended by the Law of the Republic of Kazakhstan No. 237 dated March 2, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 300-V dated April 7, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 1004. Right of Prior Use**

1. Any person that prior to the priority date of an invention, utility model or industrial design had been properly using on the territory of the Republic of Kazakhstan an identical solution created independently of the author or had made the necessary preparations for this shall retain the right of further free use of the identical solution without broadening the scope of the use.

2. A person who has began proper using of an invention, utility model, industrial design after the priority date, but prior to the official publication of information on the granting of a patent for invention, utility model, industrial design, shall cease the further use at the request of the patent holder. However, such a person is not obliged to reimburse the losses to the patent holder incurred as a result of such use.

Footnote. Article 1004 as amended by the Law of the Republic of Kazakhstan No. 237 dated March 3, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 300-V dated April 7, 2015 (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 1005. Limitation of Rights of Patent Holder**

The grounds for limiting the rights of the patent holder, the conditions for termination (cancellation) of the patent, its invalidation, termination, and compulsory licensing and expropriation of the patent shall be established by the legislative acts.

#### **Chapter 53. Right to Breeding Achievements**

#### **Article 1006. Conditions for Protection of Rights to New Varieties of Plants and New Breeds of Animals**

1. Rights to new varieties of plants and new breeds of animals (breeding achievements) shall be protected subject to the issuance of a patent. The patent certifies the exclusive right of the patent holder to use the breeding achievements, priority, and authorship of a breeder.

A breeding achievement in the plant breeding shall be recognized as a plant variety obtained artificially or by breeding and having one or more economic characteristics that distinguish it from the existing plant varieties.

A breeding achievement in animal breeding shall be recognized as a breed, that is, an integral numerous group of animals of general origin, created by a man and having a genealogical structure and properties that allow distinguishing it from other breeds of animals of the same species and are quantitatively sufficient for reproduction as one breed.

2. The conditions for legal protection of breeding achievements, procedure for execution and issuance of a patent for plant varieties and animal breeds shall be established by the legislative acts.

3. The relations connected with the rights to breeding achievements and protection of these rights, respectively, shall be governed by the rules of Articles 992-998, 1000-1004 of this Code, unless otherwise provided for by the rules of this chapter and legislative acts on the protection of breeding achievements.

**Footnote. Article 1006 as amended by the Law of the Republic of Kazakhstan No. 90 dated November 22, 2005 (the order of enforcement see in Art.2 of the Law).**

#### **Article 1007. Author's Right to Name Breeding Achievement**

1. The author of breeding achievement is entitled to give a name which should meet the requirements established by law.

2. When producing, reproducing, offering for sale, selling, and performing other types of activities for selling the protected breeding achievements, the use of their registered names shall be obligatory. Assignment for produced and (or) sold seeds, breeding material of the names which are different from the registered shall not be allowed.

3. Assignment of the names to the registered breeding achievement of produced and (or) sold seeds and breeding materials, which are not related to them, shall violate the rights of the patent holder and breeder.

#### **Article 1008. Rights of Author of the Breeding Achievement to Reward**

1. The author of the breeding achievement, who is not the patent holder, is entitled to receive remuneration from the patent holder for the use of a breeding achievement during the effective term of the patent.

2. The amount and terms of payment of remuneration to the author of the breeding achievement shall be determined by the contract between him/her and the patent holder. The amount of remuneration shall not be less than five percent of the total annual income,

received by the patent holder for the use of the breeding achievement, including the proceeds from the sale of a license.

Remuneration shall be paid to the author within six months after the expiration of each year, in which the breeding achievement was used, unless otherwise provided for in the contract between the author and the patent holder.

#### **Article 1009. Rights of Patent Holder to Breeding Achievement**

The patent holder of the breeding achievement shall have the exclusive right to use this achievement within the limits, established by the legislative acts on the protection of breeding achievements.

#### **Article 1010. Responsibilities of Patent Holder**

The patent holder of a breeding achievement shall:

- 1) enter into circulation a variety or breed, approved for use in manufacture;
- 2) maintain appropriate plant variety or appropriate breed of animals for the term of the patent, preserving the signs, specified in the official description of the variety or breed, established by the expert authority.

#### **Article 1011. Effective Term of Patent for Breeding Achievement**

The effect of a patent for a breeding achievement shall begin on the date of filing an application to the expert organization and last for twenty five years.

The Law of the Republic of Kazakhstan "On the Protection of Breeding Achievements" may establish longer effective terms for a patent for certain types of breeding achievements, as well as the possibility of their extension.

**Footnote. Article 1011 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated March 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1012. Admission to Use Breeding Achievements**

Selection achievements shall be allowed to use, which have been granted legal protection (there is a patent) in accordance with the Laws of the Republic of Kazakhstan.

**Footnote. Article 1012 as amended by the Law of the Republic of Kazakhstan No. 424-V dated (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 28.10.2019 No. 268-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).**

### **Chapter 54. Right to Integrated Circuit Layout-Designs**

#### **Article 1013. Conditions for Protection of Rights of Integrated Circuit Layout-Designs**

1. Legal protection, provided by this Chapter and other legislative acts shall extend only to the original integrated circuit layout-designs.

The original integrated circuit layout-designs shall be recognized as spatial geometric layout of all the elements of the integrated circuit created as the result of a creative activity of the author and inscribed on a tangible medium and the connections between them.

2. Legal protection provided by Articles of this section, shall not apply to ideas, methods, systems, technology, or coded information, which may be embodied in the layout-designs.

3. The rules of Articles 994-997 of this Code shall apply to the relations connected with the right to integrated circuits and protection of these rights, respectively.

#### **Article 1014. Exclusive Right to Integrated Circuit Layout-Designs**

1. The author or other right holder of the integrated circuit layout design shall have the exclusive right to use these layout designs at his/her own discretion, in particular, by manufacturing an integrated circuit layout design, including the right to prohibit the use of these layout designs to others without permission.

2. The procedure for the use of rights belonging to several authors of the layout design or other right holders shall be determined by a contract concluded between them.

3. Violation of the exclusive right shall be recognized as commission without the permission of the author of the following actions:

1) copying of the layout designs in whole or in part, by incorporating it to an integrated circuit or otherwise, except for the part, which is not original;

2) application, import, offer for sale, sale and other introduction into circulation of the layout designs or an integrated circuit with the layout design.

4. Legislative acts shall provide for the list of actions, which are not a violation of the exclusive rights of the holder of rights for use of the integrated circuit layout designs.

#### **Article 1015. Registration of Integrated Circuit Layout-Designs**

1. The author of an integrated circuit or other right holder is entitled to register layout design by filing an application for registration to the expert organization.

2. The application for registration can be performed within a period, which is not exceeding two years from the date of first use of the layout design, if it took place.

3. Procedure for registration of a layout design, and agreements on full or partial assignment of rights to them shall be established by the legislative acts.

**Footnote. Article 1015 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1016. Effective Term of Exclusive Right to Use Layout Design**

1. The exclusive right to use the layout design shall be effective for ten years from the date of registration of the layout design.

If registration of layout design was not performed, the specified ten years period shall be counted from the date of first documented use of the layout design or an integrated circuit with this layout design in any country of the world.

2. Appearance of identical original layout design, created by another author shall not interrupt or terminate the term of exclusive rights, specified in paragraph 1 of this Article.

## **Chapter 55. Right to Protection of Undisclosed Information from Illegal Use**

### **Article 1017. Legal Protection of Undisclosed Information**

1. A person, who lawfully possesses technical, organizational or commercial information, including trade secrets (know-how), which is unknown to a third party (undisclosed information), is entitled to the protection of this information from illegal use, if the conditions established in paragraph 1 of Article 126 of this Code are observed.

2. The right to protection of undisclosed information from illegal use shall occur independently of execution any formality in respect of that information (its registration, obtainment of certificates, etc.).

3. Rules on the protection of undisclosed information shall not apply to information that, in accordance with the laws may not be proprietary or trade secret (information about legal entities, rights to property and transactions with it, information, submitted in the statistical form and other).

4. The right to protection of undisclosed information shall last until the conditions specified in paragraph 1 of Article 126 of this Code are kept.

**Footnote. Article 1017 as amended by the Law of the Republic of Kazakhstan No. 258-IV dated March 19, 2010.**

### **Article 1018. Liability for Unlawful Use of Undisclosed Information**

1. A person, who without legal justification receives or distributes undisclosed information or uses it, shall reimburse the losses incurred as a result of this use to the person, who lawfully possesses this information.

2. If a person, who illegally uses undisclosed information, received it from a person, who had no right to distribute it, and the purchaser of information did not know or should have known about it (bona fide purchaser), the legal owner of undisclosed information is entitled to demand from him/her reimbursement of the losses, incurred by the use of undisclosed information, after a bona fide purchaser learned that the use of information is illegal.

3. A person, who legally possesses the undisclosed information, is entitled to demand from the person, who is using the information illegally, the immediate termination of its use.



However, the court, taking into account the means, spent by a bona fide purchaser of undisclosed information on its use, may permit its further use under a reimbursable exclusive license.

4. A person, who independently and legally received the information, which is comprising a content of undisclosed information, is entitled to use this information, regardless of the holder's rights to relevant undisclosed information, and shall not be responsible to him/her for such use.

#### **Article 1019. Transfer of Right to Protection of Undisclosed Information from Illegal Use**

1. A person, who possesses undisclosed information may transfer all or part of the information, constituting the content of the information, to another person under a license agreement (Article 966 of this Code).

2. The licensee shall take appropriate measures to protect the confidentiality of the information, received under the contract and shall have the same right to protect it from illegal use of third parties, as the licensor. If otherwise provided for in the contract, the licensee shall bear the obligation to maintain the confidentiality of information after the termination of the license agreement, if the relevant information remains undisclosed.

### **Chapter 56. Means of Individualization of Participants of Legal Entities,**

#### **Goods and Services**

##### **Paragraph 1 Company name**

#### **Article 1020. Right to Company Name**

1. A legal entity shall have the exclusive right to use a company name (Article 38 of this Code) in the official forms, publications, advertising, signs, brochures, invoices, on websites, on goods and their packaging, and in other cases, necessary for the individualization of a legal entity.

2. The company name of a legal entity shall be determined by the approval of its charter. The entity shall be included in the State Register of Legal Entities under a certain company name.

3. The use of the company name, similar to the company name, which is already registered as a legal entity, can lead to the identification of the relevant entities, and misleading about its products or services rendered.

4. If the company name of a legal entity is identical or confusingly similar to a trade mark (service mark) of any other legal entity or an individual, who is engaged in business activity, and as a result of the identity or similarity can mislead consumers, the means of individualization shall have a priority (company name, trademark, service mark), which exclusive right arose previously. The owner of such means of identification, in accordance with the laws of the Republic of Kazakhstan, is entitled to claim for annulment of legal

protection of a trademark (service mark) for similar goods or services, or ban on the use of a company name.

Footnote. Article 1020 as amended by the Law of the Republic of Kazakhstan No. 537-IV dated January 12, 2012 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 60-V dated December 24, 2012 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 1021. Use of Company Name of Legal Entity in Trademark**

Company name of a legal entity may be used in its own trademark.

#### **Article 1022. Effect of Right to Company Name**

1. The legal entity shall have in the territory of the Republic of Kazakhstan the exclusive right to the company name, registered in the Republic of Kazakhstan as the designation of a legal entity.

The legal entity shall have in the territory of the Republic of Kazakhstan the exclusive right to the company name, registered or generally accepted in a foreign country in the cases stipulated by the legislative acts.

2. The effect of the right to a company name shall be terminated with the liquidation of the legal entity and with the change of its company name.

#### **Article 1023. Alienation of Right to Company Name**

1. Alienation and transfer of the rights to the company name of the legal entity shall not be allowed, except for the reorganization of the legal entity and exclusion of the whole enterprise.

2. The owner of the rights to a company name can permit (issue a license) to another person to use his/her name by means, stipulated in the contract. The license contract shall include measures, which exclude the misleading of the consumers.

#### **Paragraph 2. Trademark**

#### **Article 1024. Legal Protection of Trademark**

1. The legal protection of a trademark shall be provided on the basis of its registration or without registration under the international treaties, where the Republic of Kazakhstan act as a participant.

Trademark (service mark) shall be recognized as registered or protected without registration by an international treaty, verbal, visual, volumetric or other designation, serving to distinguish the goods or services of one person from the goods and services of others.

If a trademark (service mark) of a legal entity or an individual, who are engaged in business activity, is identical or confusingly similar to a company name of another entity, and as a result of the identity or similarity can mislead consumers, the provisions specified in paragraph 4 of Article 1020 of this Code shall be applied.

2. The designations, which registration as a trademark is not permitted, and the procedure for registration of trademarks, their termination and invalidation, as well as cases in which may be allowed the legal protection of unregistered trademarks, shall defined by the legislative acts on trademarks.

3. The right for trademarks shall be certified by a certificate.

**Footnote. Article 1024 as amended by the Law of the Republic of Kazakhstan No. 537-IV dated January 12, 2012 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 161-VI June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication);**

#### **Article 1025. Right to Use the Trademark**

1. The owner of a trademark shall have the exclusive right to use and dispose his/her sign.

Restrictions on the rights of owners to use a trademark with requirements that may damage the distinctiveness of a trademark shall not be allowed.

2. The usage of a trademark shall be defined as its introduction into circulation, through means such as: production, use, import, store, offer for sale, sale of trademark or goods designated by the mark, and the use in signs, advertising, printed materials or other business documents.

3. Features of advertising trademarks and goods, marked by trademarks, shall be determined by the laws of the Republic of Kazakhstan.

**Footnote. Article 1025 as amended by the Law of the Republic of Kazakhstan No. 264 dated June 19, 2007 (the order of enforcement see in Art. 2 of the Law); No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1026. Legal Protection of Trademarks In the Republic of Kazakhstan**

Trademarks in the territory of the Republic of Kazakhstan, registered by a patent authority (organization) of the Republic of Kazakhstan or international organization by virtue of an international treaty, ratified by the Republic of Kazakhstan shall be legally protected.

**Footnote. Article 1026 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1027. Effective Term of Right to Trademark**

1. The priority of a trademark shall be established in accordance with the Law of the Republic of Kazakhstan "On Trademarks, Service Marks and Appellations of Origin", or by virtue of an international treaty ratified by the Republic of Kazakhstan.

2. The right to a trademark shall be effective for ten years from the date of registration of the application.

According to the application of the holder of the right to the trademark, filed to the expert organization during the last year of the trademark term, the extension of the trademark term by ten years may be registered. The right can be extended for indefinite number of times.

**Footnote. Article 1027 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication);**

#### **Article 1028. Consequences of Non-Use of Trademark**

When a trademark is not used without a good reason, continuously for three years, its registration may be canceled at the request of any interested person.

Conclusion of a license contract to use the trademark shall be considered as using it.

**Footnote. Article 1028 as amended by the Law of the Republic of Kazakhstan No. 537-IV dated January 12, 2012 (shall be enforced upon expiry of ten calendar days after its first official publication);**

#### **Article 1029. Transfer of Right to Trademark**

1. The right to the trademark, in respect of all goods and services, or their parts can be transferred to another person under the contract.

2. The transfer of the trademark shall not be allowed, if it can be the cause of misleading about the product or its manufacturer.

3. Transfer of right to the trademark, including its transfer under contract or by way of succession, should be registered in the expert organization.

**Footnote. Article 1029 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1030. Allowance to Use Trademark**

1. The right to use a trademark may be granted by the owner of the rights to another person under the license agreement, with all of goods and services or their parts, designated in the certificate (Article 966 of this Code).

2. License agreement, that permits the licensee to use the trademark, shall contain a condition, that the quality of goods or services of the licensee will not lower the quality of

goods or services of the licensor, and the licensor shall have the right to monitor the implementation of this provision.

3. Upon termination of the trademark rights the action of the license agreement shall be terminated.

4. Transfer of right to the trademark to another person shall not terminate the license agreement.

**Footnote. Article 1030 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1031. Transfer of Right to Trademark and Granting of Right to Use Trademark**

A contract on the transfer of rights to a trademark or license agreement shall be concluded in writing and registered in the expert organization. The transfer of the right to a trademark or the granting of the right to use a trademark shall be subject to registration in the manner determined by the authorized state body.

Non-observance of the written form and (or) the provision requiring the state registration shall cause the invalidity of the contract.

Cancellation of registration shall be carried out in accordance with the Law of the Republic of Kazakhstan "On Trademarks, Service Marks and Appellations of Origin".

**Footnote. Article 1031 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1032. Responsibility for Violation of Right to Trademark**

1. A person, who unlawfully uses a trademark or designation similar to it to the misleading of others, should cease violation and reimburse the losses incurred to the owner of the trademark.

2. Disputes related to determining the legality of using a trademark or a designation similar to it to a degree of confusion, or a well-known trademark, shall be considered by the court in the manner established by the civil procedural legislation of the Republic of Kazakhstan.

3. A product and its packaging, on which a trademark or designation similar to it to a degree of misleading is placed without the consent of the copyright holder, shall be deemed to be counterfeit. Counterfeit goods and their packaging, as well as tools, equipment or other means and materials used for their manufacture, shall be subject to withdrawal from circulation and destruction at the expense of the violator on the basis of a court decision that

entered into force, except for cases when the introduction of such goods into circulation necessary in the public interest and does not violate the requirements of the legislation of the Republic of Kazakhstan on consumer protection.

4. The right holder shall have the right to demand the removal from the counterfeit goods and their packages of an illegally placed trademark or a designation similar to it to the degree of misleading in the cases indicated in paragraph 3 of this article.

5. A person who has violated the right of the owner of a trademark in the performance of work or provision of services is obliged to remove the trademark or designation similar to it to the degree of misleading with the materials that accompany the execution of work or the provision of services, including documentation, advertising, signages.

6. When proving the fact of the offense, the right holder has the right instead of compensation for damages to require the violator to pay compensation in the amount determined by the court, based on the nature of the violation, the market value of homogeneous (original) goods on which the trademark or designation similar to it to the degree of confusion are placed with the consent of the copyright holder.

**Footnote. Article 1032 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Paragraph 3. Appellation of Origin of Goods**

#### **Article 1033. Legal Protection of Appellation of Origin of Goods**

1. Legal protection of appellation of origin of goods shall be provided on the basis of registration, except the cases, provided by the legislative acts.

Appellation of origin of goods (indication of origin) shall be the name of the country, community, locality or other geographic area, using to designate a product, which special properties are exclusively or mainly determined by this geographical natural conditions or other factors or by combination of natural conditions and these factors.

Appellation of origin of goods may be the historical name of the geographical object.

2. The designation shall not be recognized as the appellation of origin of goods and is not registered for the purposes of its legal protection in accordance with the rules of this paragraph, although it represents or contains the name of a geographic object, but is generally used in the Republic of Kazakhstan as a designation of a certain type of goods, not associated with the place of manufacture. This, however, does not deprive a person whose rights are violated by the unfair use of such a appellation, the possibility of their protection by other means provided for by the legislative acts, including on the basis of unfair competition rules.

3. Legal protection of appellation of origin of goods shall be provided subject to its registration or by virtue of an international treaty ratified by the Republic of Kazakhstan.

Footnote. Article 1033 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 1034. Right to Appellation of Origin of Goods**

1. A person, who has the right to use the appellation of origin of goods, is entitled to place the name of origin on the product, packaging, advertising, brochures invoices and use it otherwise in connection with the introduction of the product into civil-law transactions.

2. Goods origin can be registered by several persons jointly or separately, to designate a product that meets the requirements specified in paragraph 1 of Article 1033 of this Code. The right to use the appellation of origin of goods shall belong to each of these individuals.

3. A person, who in good faith uses a geographical indication, which is identical or similar to a registered appellation of origin of goods, at least six months prior to the date of first registration, shall retain the right to its use, within the period of seven years from the date of such registration.

4. Alienation, other transactions of the assignment the right to use the appellation of origin of goods and providing to use them by the license, shall not be allowed.

Footnote. Article 1034 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 1035. Scope of Legal Protection of Appellation of Origin of Goods**

1. Kazakhstan shall provide the legal protection for appellation of origin of goods which are in the territory of the country.

2. Legal protection of appellation of origin of the goods which are in another state, shall be provided in the Republic of Kazakhstan, if the name is registered in the country of origin, and in the Republic of Kazakhstan in accordance with this Code.

#### **Article 1036. Validity Period of Certificate for Right to Use Appellation of Origin of Goods**

The certificate for the right to use the appellation of origin of goods shall be effective for ten years from the date of filing the application to the expert organization.

The period of validity may be extended at the request of its owner, filed during the last year of the certificate, for ten years in the conditions, granting the right to use the appellation. The right may be extended for indefinite number of times.

Footnote. Article 1036 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).

#### **Article 1037. Liability for Illegal Use of Appellation of Origin of Goods**

1. A person who has violated the right to use the appellation of origin of goods should immediately cease the violation and reimburse the losses to the owner for the right to use the appellation of origin of goods.

2. Disputes related to determining the legality of using the appellation of origin of goods or a designation similar to it to a degree of misleading shall be considered by the court in the manner established by the civil procedural legislation of the Republic of Kazakhstan.

3. The goods and its packaging, having a appellation of origin of goods or a designation similar to it to a degree of misleading placed without the consent of the copyright holder, shall be deemed counterfeit. Counterfeit goods and their packaging, as well as tools, equipment or other means and materials used for their manufacture, shall be subject to withdrawal from circulation and destruction at the expense of the violator on the basis of a court decision that entered into force, except for cases when the introduction of such goods into circulation necessary in the public interest and does not violate the requirements of the legislation of the Republic of Kazakhstan on consumer protection.

4. The right holder shall have the right to demand the removal from the counterfeit goods and their packages of the illegally placed appellation of origin of the goods or a designation similar to it to the degree of misleading in the cases indicated in paragraph 3 of this article.

5. A person who has violated the right to use the appellation of origin of goods during the performance of work or the provision of services should remove the appellation of origin or a designation similar to it to the degree of misleading with the materials that accompany the performance of work or provision of services, including from documentation, advertisements, signage.

6. When proving the fact of a violation, the right holder shall have the right, instead of compensation for damages, to require the violator to pay compensation in the amount determined by the court, based on the nature of the violation, the market value of homogeneous (original) goods for which the appellation of origin or a designation similar to it to the degree of misleading, posted with the consent of the copyright holder.

**Footnote. Article 1037 as amended by the Law of the Republic of Kazakhstan No. 161-VI dated June 20, 2018 (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Section 6**

### **Law of Succession**

#### **Chapter 57. General Provisions Governing Succession**

##### **Article 1038. Succession**

1. Succession shall be recognized as the transfer of property of a deceased person (testator ) to another person (persons) who is a heir (are the heirs).



2. Property of a deceased person shall be transferred to other persons on the terms of universal legal succession as a whole and at the same point of time, unless otherwise provided by rules of this section.

3. Succession shall be governed by this Code, and in the cases expressly established by the Code, by other legislative acts.

#### **Article 1039. Grounds for Succession**

1. Succession shall be by will and by operation of law.

2. Succession by operation of law shall take place when there was no will left or the will covers only a part of the inheritance and also in the other cases established by this Code.

#### **Article 1040. Estate of Inheritance**

1. The inheritance shall incorporate the property owned by the testator as well as the rights and liabilities retained after the testator's death.

The inheritance may also include the rights necessary for the registration of the testator's property rights that were not registered during his/her life, including the right to register property rights.

2. Rights and liabilities inseparable from the personality of the testator shall not be included in the estate of inheritance:

1) rights of membership in organizations that are legal entities, unless otherwise provided by the legislative acts or the contract;

2) right to redress of the injury to life or health;

3) rights and obligations arising from maintenance obligations;

4) rights to pensions, benefits and other payments on the basis of the Labour Code of the Republic of Kazakhstan and laws of the Republic of Kazakhstan in the field of social security ;

5) personal non-property rights, not associated with the property rights, except for the cases established by the legislative acts.

3. Personal non-property rights and other non-material benefits, which belonged to the testator, may be exercised and protected by heirs.

**Footnote. Article 1040 as amended by the Law of the Republic of Kazakhstan No. 253 dated March 15, 2007; No. 524-IV dated December 28, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 49-VI dated February 27, 2017 ( shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1041. Inheritance of Joint Property**

1. Death of one of the owners of joint property shall be the grounds for determining his/her share in the property and division of the joint property or apportionment of the share of a

deceased owner in accordance with the procedure established by Article 218 of this Code. In this case inheritance shall be opened with regard to the share of the deceased person in joint property and if it is impossible to carry out division of property in kind with regard to the value of such a share.

2. One of the owners of joint property shall have the right to bequeath his/her share in joint property, which will be determined after his/her death, in accordance with paragraph 1 of this Article.

#### **Article 1042. Opening of Inheritance**

1. Inheritance shall be opened upon the death of a person or the announcement of his/her death.

2. The date of opening of inheritance shall be deemed the day of the person's death, and in case of announcement of the person's death - the day of entry into force of the court decision on the announcement of the person's death if another date is not indicated in the decision of the court.

3. If the persons, who had the right to inherit property one after another, died on the same day, they shall be deemed to have died at the same time and inheritance shall be opened after each other. In such cases the heirs of each of them shall be called upon to inherit.

#### **Article 1043. Place of Opening of Inheritance**

The last place of residence of a testator shall be the place of opening the inheritance, and if it is unknown then the place of opening the inheritance shall be deemed the place where the property or its main part are located.

#### **Article 1044. Heirs**

1. Persons being alive as of the date of opening of the inheritance, as well as persons conceived when the testator was alive and those born alive after the opening of the inheritance, may be the heirs by law and will.

2. Legal entities established prior to the opening of the inheritance and existing as of the date of opening of the inheritance can also be called upon to inherit.

#### **Article 1045. Unworthy Heirs**

1. Persons who deliberately deprived the testator or potential heirs of life, or made an attempt to take the testator's life shall have no right to inherit neither by law nor by will. Exceptions are provided for persons, to whom the testator left a will after they have attempted to take his/her life.

2. Persons who deliberately impeded the exercise of the last will of the testator and who assisted calling themselves or persons who are close to them to inherit or assisted the increase

in the share of inheritance they or other persons are entitled to, shall have no right to inherit neither by will, nor by law.

3. Parents shall not be entitled to inherit from children in respect of whom parents have been deprived of their parental rights by the court, provided that these rights had not been restored as of the date of opening the inheritance, as well as parents (adopters) and full age children (adopted) who evaded execution of duties entrusted to them by virtue of law with regard to taking care of the testator.

4. The circumstances that serve as grounds for dismissal from inheritance of unworthy heirs shall be established by the court.

4-1. Persons who are not entitled to inherit or who were eliminated from inheritance under the present article (unworthy heir), shall be obliged to return all the property he/she groundlessly received from the estate of inheritance.

When return of inheritance property is impossible, a heir shall be obliged to compensate for it at its commercial value.

5. The rules of this Article shall also apply to testamentary refusal (Article 1057 of this Code).

If the subject of the testamentary refusal was implementation of the certain work for a unworthy legatee or rendering him/her a certain service, the latter shall be obliged to compensate the cost of the implemented work to the heir implemented the testamentary refusal.

6. The rules of this Article shall apply to all heirs, including those who have the right to an obligatory share.

**Footnote. Article 1045 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Chapter 58. Succession by Will**

### **Article 1046. General provisions**

1. Will shall be recognized as an expression of will of a person with regard to disposition of property belonging to him/her in the case of his/her death.

1-1. The will shall be created by a person who had his/her full dispositive capacity as of the time when it was created.

2. The person may bequeath all his/her property or part of it to one or several persons who are or are not heirs by law, as well as to legal entities and the state.

3. The will should be executed in person. The will cannot be created through a representative.

4. The testator shall have the right to deprive of inheritance one, several, or all heirs by law at his/her sole discretion. Deprivation of an heir by law of inheritance shall not apply to

his/her descendants who inherit by the right of presentation, unless otherwise arose from the will.

5. The testator shall have the right to execute a will containing instructions on any property, including that which he may acquire in the future.

The testator shall have the right to set heirs' shares in the inheritance in any way, to dispose of his/her property or any of its part, by making one or several wills, concerning different properties.

6. The testator shall be free to revoke and amend the drawn up will at any moment after executing it, and he/she shall not be obliged to indicate reasons for the revocation or amendment.

7. The testator shall not have the right to entrust to the persons who are in his/her will appointed by him as heirs, the duty to distribute the property bequeathed by him/her in a certain manner in the case of their death.

**Footnote. Article 1046 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1047. Conditional Will**

1. The testator shall have the right to condition the receipt of inheritance to a certain condition with regard to heir's behavior.

2. Illegal conditions included in the instructions concerning appointment of heirs or deprivation of the right to inherit shall be null and void.

3. Conditions which are included into a will and which are unfeasible for heirs because of their status of health or by virtue of other objective reasons, may be recognized as invalid pursuant to the action of an heir.

**Footnote. Article 1047 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1048. Sub-Appointment of Heirs**

1. The testator may appoint another heir (sub appointment of an heir) in the case where an heir indicated in the will dies prior to the opening of the inheritance, or does not accept it or refuses it, or is removed from inheritance as unworthy heir in accordance with the procedure of Article 1045 of this Code, and also provide for the case of an heir's failure to comply with the legitimate conditions of the testator by will.

2. Any person, who in accordance with Article 1044 of this Code may be an heir, may be a sub-appointed heir.

3. Refusal of an heir by will for benefit other than that of the sub-appointed heir shall not be allowed.

#### **Article 1049. Inheritance of Part of Property Which Is Left Not Bequeathed**

1. The part of property that is left not bequeathed shall be distributed among the heirs by law called to inheritance in accordance with the procedure of Articles 1061-1064 of this Code

2. The circle of those heirs shall also comprise those heirs by law to whom the other part of the property was left by will.

**Footnote. Article 1049 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1050. General Rules Concerning Form of Will**

1. The will should be created in writing and attested by a notary with an indication of the place and time of its creation.

2. The following shall be recognized as wills drawn up properly:

1) will attested and certified by a notary;

2) wills equated to those attested and certified by a notary public.

3. The will should be signed with a testator's own hand.

When the testator by virtue of physical drawbacks, disease or illiteracy cannot sign a will with his/her own hand, it pursuant to his/her request may be signed in the presence of a notary or any other person to attest the will, by other citizen with an indication of the reasons because of which the testator might not sign his/her will with his/her own hand.

4. In the cases where in accordance with the rules of this Code witnesses should be present during making, drawing up, signing or attesting a will, the following may not be the witnesses, nor may sign a will instead of the testator:

1) notary or any other person who attests the will;

2) person for whose benefit a will is drawn up or a testamentary refusal was made, a spouse of such person, his/her children, parents, grandchildren, great-grandchildren or heirs of the testator by law;

3) citizens who have limited capability;

4) illiterate and other persons who cannot read a will;

5) persons who have been sentenced for perjury.

**Footnote. Article 1050 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1051. Will Attested by Notary**

1. The will attested by a notary should be written by a testator or written down by a notary from the words of the testator in the presence of a witness. When the will is written down from the words of the testator by a notary, usual technical devices may be used (typewriter, personal computer etc.).

2. The will written by a notary from the words of the testator should be read in full by the testator in the presence of a notary and a witness before the will is signed.

When a testator due to physical problems, disease or illiteracy is not capable to read a will by himself/herself, its text shall be read out for him/her by the witness in the presence of the notary with a relevant annotation to that effect shall be made in the will with an indication of the reasons why the testator was not able to read his/her will by himself/herself.

3. When the will attested by notary is drawn up in the presence of a witness, the surname, name and place of the witness' permanent residence should be indicated in the will. The same details should be included in the will with regard to the person who signed the will instead of the testator.

4. At the testator's discretion, the will shall be attested by a notary without a notary's perusal of its contents (secret will).

The secret will, under the fear of its invalidity should be written with the testator's own hand and it should be signed by the testator in the presence of two witnesses and a notary, sealed in an envelope on which the witnesses shall affix their signatures. An envelope signed by witnesses shall be sealed in the presence of the witnesses and notary into another envelope, on which the notary shall affix his/her notarization note.

4-1. When the death certificate of a person who has made a secret will is presented, the notary shall open the envelope with the will in the presence of not less than two witnesses and those who wish to be present among the heirs concerned in accordance with the law no later than ten days from the date of submission of the death certificate. After the opening of the envelope, the text of the will contained therein shall be immediately made public by the notary, after which the notary shall draw up and sign with the witnesses a protocol certifying the opening of the envelope with the will and containing the full text of the will. The original will is kept at the notary's office. Heirs are given a notarized copy of the report.

5. Wills of persons residing in populated areas where there is no notary shall be attested by official person authorized by the legislative acts to perform notarial actions.

**Footnote. Article 1051 with the change introduced by the Law of the Republic of Kazakhstan dated 21.01.2019 № 217-VI (shall be enforced upon expiration after ten calendar days after the day of its first official publication).**

## **Article 1052. Wills Equal to Wills Attested by Notary**

1. The following shall be equal to wills attested by a notary:

1) wills of persons who undergo treatment in hospitals, sanatoria and other medical and prevention institutions as well as of those who reside in homes for the elderly and disabled, attested by the chief physicians, physicians on duty of those hospitals, sanatoria and other medical and prevention institutions, as well as by the directors, chief physicians of homes for the elderly and disabled;

2) wills of military servicemen and other persons undergoing treatment in hospitals, sanatoria and other military and medical institutions attested by the chiefs, their deputies for medical matters, head physicians and physicians on duty of those hospitals, sanatoria and other military and medical institutions;

3) wills of persons who are on sailing sea ships or other ships of internal navigation, which are under the flag of the Republic of Kazakhstan, attested by the captains of those ships ;

4) wills of persons who are on exploration and other expeditions, certified by the heads of these expeditions;

5) wills of military servicemen, and in places of dislocation of military units, formations, establishments, military and educational institutions where there are no notaries and official persons authorized to perform notarial actions, as well as wills of civic personnel working for those units, their family members and family members of military servicemen, attested by the commanders (heads) of those military units, formations, institutions and establishments;

6) wills of persons who are in places of deprivation of freedom, attested by the heads of places of deprivation of freedom.

2. Wills provided for in paragraph 1 of this Article should be signed by the testator in the presence of a witness who shall also sign the will.

Officials enumerated in paragraph 1 of this Article shall be obliged to hand over one copy of the attested will to a notary for keeping in accordance with legislation on notary's office.

In other respects, such wills shall be subject to the rules of Article 1051 of this Code, except for the provision on will notarization.

### **Article 1053. Revocation and Amendment of Will**

1. The testator shall have the right to revoke or amend the will he/she made at any time.

2. A will may be revoked by way of:

1) submission of an application to a notary's office for revocation of a will in full which was made by him/her earlier;

2) drawing up a new will.

3. A will may be amended by way of:

1) submission of an application to a notary's office for amending a will in certain part which was made by him/her earlier;

2) drawing up a new will that alters a will partially which was made earlier.

4. The will drawn up earlier which was renounced fully or partially by a subsequent will shall not be restored if the latter is renounced or amended by the testator in its turn.

#### **Article 1054. Secrecy of Will**

A notary, another person attesting a will, witnesses and also a person who signs the will on the behalf of the testator shall not disclose information concerning the content of the will, its creation, alteration or revocation before the opening of the inheritance.

#### **Article 1055. Interpretation of Will**

When a will is interpreted by a notary, executor of the will or the court, the literal meaning of the words and expressions contained therein shall be taken into consideration. Where the verbal meaning of some provision of a will is unclear, it shall be established by way of comparing that provision with other provisions and the essence of the will as a whole.

#### **Article 1056. Invalidity of Will**

1. The will drawn up in an improper form shall be null and void. Invalidity of the will shall be recognized also in accordance with the rules of Chapter 4 of this Code concerning invalidity of transactions.

2. The will may be recognized as invalid pursuant to an action of a person for whom the recognition of a will as invalid has material consequences, due to violation of the procedure established by this Code for compilation, signing and attesting wills.

Clerical and other minor violations of a technical nature, committed during its preparation cannot serve as the basis for invalidity of the inheritance, signing or certification, if the court determines that they do not affect the understanding of the will of the testator.

3. Invalidity of certain instructions contained in a will shall not invalidate the rest of a given will.

4. In the event of recognizing a will as invalid, an heir who in accordance with that will was deprived of inheritance, shall acquire the right to inherit by law in accordance with the procedure established by Article 1060 of this Code.

**Footnote. Article 1056 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1057. Testamentary Refusal (Legatum)**

1. The testator shall have the right to entrust to a heir by will the execution at the expense of inheritance of any obligation (testamentary refusal) for the benefit of one or several



persons (recipients of refusals), who shall acquire the right to claim execution of a testamentary refusal.

Persons who are or are not heirs by law may be recipients of gifts (legatees).

2. Transfer into ownership of the refusal recipient, for use or in accordance with any other corporeal right of an article which is a part of inheritance, acquisition and transfer to him/her of property which is not a part of the inheritance, performance for him/her of certain work, rendering of a certain service etc. may be subject to a testamentary refusal.

3. The heir to whom his/her testator entrusted a testamentary refusal should execute it only within the limits of actual value of the inheritance he/she received and less a part of debts of the testator, which is apportioned to him (her).

When the heir to whom a testamentary refusal is entrusted has the right to an obligatory share in inheritance, his/her duty to execute the gift shall be restricted by the value of inheritance he received in excess of his/her obligatory share.

When a testamentary refusal is entrusted to all or several heirs, it shall encumber each of them in proportion to their shares in inheritance, unless otherwise provided by the will.

4. The testator shall have the right to entrust an obligation to the heir who inherits a dwelling house or dwelling premises to grant life tenure of dwelling house or its certain part to another person. In the case of a transfer of the right of ownership with regard to a given dwelling, the right of life tenure shall remain in force.

The right to life tenure shall be unalienable, non-transferable and it shall not be acquired by heirs of a legatum recipient.

The right to lifelong tenure granted to the legatee shall not be the reason for the residence of the members of his/her family, unless otherwise specified in the will.

5. In the case of the death of an heir to whom a testamentary refusal was entrusted, or in the case of his/her failure to receive inheritance, the execution of a testamentary refusal shall be transferred to other heirs who have received his/her share, or to the state, if property became vacant.

The testamentary refusal shall not be executed in the case of a legatum recipient death prior to the opening of inheritance or after the opening, but prior to that moment when an heir by will managed to accept it.

6. A legatum recipient shall not be liable for debts of the testator.

#### **Article 1058. Testamentary Burden (Assignment)**

1. The testator may assign to an heir by will an obligation to perform an act or abstain therefrom without granting to anyone the right to claim the execution of that obligation as a creditor. For attaining a generally useful purpose the same obligation may be assigned to a will executor when a part of the property is appropriated by the testator for the execution of the assignment.

2. The rules of Article 1057 of this Code shall accordingly apply to assignment that is associated with actions having a property nature.

3. The obligation to execute an assignment shall be terminated in the case where due to the circumstances provided for by this Code, a share in the inheritance which is owing to or which belongs to the heir with whom the duty rested to execute an assignment, is transferred to other heirs.

**Footnote. Article 1058 as amended by the Law of the Republic of Kazakhstan No. 15-V dated April 27, 2012 (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 1059. Execution of Will**

1. The testator may entrust the execution of a will to a person specified by him/her in the will who is not the heir (will tester, executor). The consent of that person to be executor of a will should be expressed by him/her either in his/her own hand's note on the will itself, or in an application attached to the will.

When its executor is not indicated in the will, the heirs by agreement between themselves shall have the right to delegate the execution of the will to one of the heirs or to another person. In the case of a failure to reach such an agreement, the executor of a will may be appointed by the court pursuant to claims of one or several heirs.

An executor of a will shall have the right to refuse the execution of obligations delegated to him/her by the testator, by prior notice to the heirs by will. The discharge of the executor of the will from his/her obligations shall also be possible pursuant to the court decision based on the application of the heirs.

2. The will executor shall:

- 1) carry out protection of the inheritance and its management;
- 2) take every step available to notify all the heirs and refusal recipients of the opening of the inheritance for their benefit;
- 3) receive amounts owing to the testator;
- 4) transfer to the heirs properties which are owing to them in accordance with the testator's will and legislative acts;
- 5) ensure the compliance by heirs with testamentary refusals entrusted to them (Article 1057 of this Code);
- 6) execute testamentary delegations or require from heirs by will of the execution of testamentary delegation (Article 1058 of this Code);
- 7) carry out the liquidation of liabilities associated with the inheritance.

3. The executor of a will shall have the right to participate in court cases and other cases associated with the management of the inheritance and execution of the will in his/her own name, or he/she may be engaged to take part in such cases.

4. The executor of a will shall perform his/her functions within a reasonable period sufficient for liquidation of inheritance liabilities, collection of amounts which are owing to the testator and acquisition by all heirs of ownership with regard to an inheritance.

5. An executor of a will shall have the right to reimbursement at the expense of the inheritance of appropriate expenses associated with the management of the inheritance and execution of the will. The will there may provide for a payment of remuneration to the executor of the will at the expense of the inheritance.

6. Upon execution of the will an executor of the will shall be obliged to submit to the heirs a report pursuant to their demand.

## **Chapter 59. Succession by Operation of Law**

### **Article 1060. General provisions**

1. The heirs by law shall be called upon to inherit in accordance with the priority ranking set out by Articles 1061 - 1064 of this Code.

2. When inheriting by law, an adopted person and his/her descendants on the one side and the adopter and his/her relatives on the other side shall be equated to blood relatives.

Adopted persons and their descendants shall not inherit by law after the death of blood parents of the adopted person or other blood relatives.

Parents of an adopted person and other blood relatives shall not inherit by law after the death of an adopted person and his/her descendants.

3. Each subsequent heir by law shall receive the right to inherit in the case there are no heirs of the previous category, their removal from the inheritance, non-acceptance of inheritance or refusal by them, except for the cases indicated in paragraph 5 of Article 1074 of this Code.

4. The rules of this Code concerning the categories for calling upon heirs by law to inherit and concerning size of their shares in inheritance may be changed by a notarized agreement of interested heirs which is concluded after the opening of inheritance. Such an agreement should not infringe the rights of the heirs, which are not a party to it, nor the heirs who have the right to an obligatory share.

**Footnote. Article 1060 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 1061. First Category Heirs**

1. The right to inherit by law shall be granted in equal shares to the children of the testator, including those born alive after his/her death as well as the spouse and parents of the testator

2. The testator's grandchildren and their descendants shall inherit by right of representation.

**Footnote. Article 1061 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1062. Second Category Heirs**

1. If there are no heirs of the first category the legal heirs of the second category shall be granted the right to inherit who are the full and half brothers and sisters of the testator, his (her) grandfather and grandmother both on the side of the father and on the side of the mother.

2. The children of full and half brothers and sisters of the testator (nephews, nieces of the testator) shall inherit by right of representation.

**Footnote. Article 1062 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1063. Third Category Heirs**

1. If there are no heirs of the first and second categories the legal heirs of the third category shall be the full and half brothers and sisters of the parents of the testator (uncles and aunts of the testator).

2. Cousins of the testator shall inherit by right of representation.

**Footnote. Article 1063 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1064. Next Category Heirs**

1. If there are no heirs of the first, second and third categories, the right to inherit by law shall be acquired by the testator's relatives of the third, fourth and fifth degree of kinship who are not qualified as heirs of the preceding categories.

The degree of kinship shall be determined by the number of births that separate relatives from each other. The birth of the testator in this case does not count.

2. Under paragraph 1 of the present article the following shall be called upon to inherit:  
as heirs of the fourth category: relatives of the third degree of kinship - great grandfathers and great grandmothers of the testator;

as heirs of the fifth category: relatives of the fourth degree of kinship - children of full nephews and nieces of the testator (grandsons and granddaughters once removed) and

brothers and full sisters of their grandfathers and grandmothers (grandsons and granddaughters once removed) and full brothers and sisters of their grandfathers and grandmothers once removed);

as the heirs of the sixth category: relatives of the fifth degree of kinship - children of grandsons and granddaughters of the testator once removed (grand grandsons and grand granddaughters once removed), children of his cousins (nephews and nieces once removed) and children of his grandfathers and grandmothers once removed (uncles and aunts once removed).

3. If there are no heirs of the preceding categories the following shall be called upon to inherit as heirs of the seventh category by law: stepsons, stepdaughters, the stepfather and the stepmother of the testator.

**Footnote. Article 1064 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1065. Next Category Heirs by Law**

**(Article is excluded by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication)).**

#### **Article 1066. Six Category Heirs by Law**

**(Article is excluded by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication)).**

#### **Article 1067. Succession by Right of Representation**

1. The share of a legal heir who has died before the opening of the inheritance or simultaneously with the testator shall be passed by right of representation to his/her relevant issue in the cases specified in paragraph 2 of Article 1061, paragraph 2 of Article 1062 and paragraph 2 of Article 1063 of this Code and it shall be divided between them in equal shares.

2. The issue of a legal heir who has died before the opening of the inheritance or simultaneously with the testator and who would not have had a right of inheritance under Article 1045 of this Code shall not inherit by the right of representation.

**Footnote. Article 1067 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1068. Succession by Disabled Dependents of Testator**

1. Persons qualifying as the legal heirs specified in Articles 1062, 1063, 1064 of this Code who are disabled as of the date of opening of the inheritance but not included in the category

of heirs are called upon to inherit shall inherit by operation of law together and in equal shares with the heirs of that category if they had been dependants of the testator for at least a one-year term preceding the death of the testator, regardless of whether they resided together with the testator or not.

2. Heirs, according to the law, who are not included in the circle of heirs specified in articles 1061, 1062, 1063, 1064 of the present Code, but by the day of opening of the inheritance were disabled and not less than a year before the death of the testator were dependent on him and lived together with him, inherit together and on an equal footing with the heirs of the turn, which is called for inheritance.

In the absence of other heirs by law, the dependents of the testator indicated in paragraph 2 of this article shall inherit independently as heirs of the eighth turn.

**Footnote. Article 1068 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication); with the changes made by the Law of the Republic of Kazakhstan dated 21.01.2019 № 217-VI (shall be enforced upon expiration after ten calendar days after the day of its first official publication).**

#### **Article 1069. Right to Obligatory Share In Inheritance**

1. The minor or disabled children of the testator, his/her disabled spouse and parents shall inherit irrespective of the content of the will at least half of the share each of them is entitled to in the case of succession by operation of law (compulsory share).

2. The obligatory share shall comprise everything which an heir who has the right to such a share, receives by will and (or) by law, including the value of estate consisting of household furniture and objects and value of a testamentary refusal established for the benefit of such an heir.

3. Any restrictions and encumbrances established in a will for an heir who has the right to an obligatory share in inheritance shall be valid only with regard to that part of estate he/she inherits which exceeds the obligatory share.

#### **Article 1070. Rights of Spouse to Inheritance**

1. The right of inheritance that the surviving spouse of the testator has by will or by operation of law shall not diminish the spouse's right to the portion of property gained during the period of marriage with the testator and deemed their joint property.

2. Pursuant to the court decision a spouse may be removed from the inheritance by law, provided it is proved that marriage with the testator actually terminated prior to the opening of inheritance and the spouse lived separately for not less than 5 years prior to the opening of the inheritance.

#### **Article 1071. Protection of Inheritance and Its Managing In Case of Inheritance By Law**

1. In the case where a part of estate is inherited by will, the will executor appointed by the testator shall carry out protection of an entire inheritance and its management, including that part of the inheritance which is inherited in accordance with the procedure for inheritance by law.

The will executor appointed in accordance with Article 1059 of this Code by heirs by law or by the court, shall exercise the function of protection of the entire inheritance as a whole and its management, unless the heirs by law require the appointment of a trust administrator for the inheritance in order to exercise the specified functions with regard to that part of the inheritance which is inherited in accordance with the procedure for inheriting by law.

2. The trust administrator of estate shall be appointed by a notary where inheritance is opened pursuant to one or several requests of heirs by law. The heir by law, who disagrees with the appointment of the inheritance administrator or with the appointment of the given administrator, shall have the right to challenge the appointment of the administrator in the court procedure.

3. When heirs by law are absent or unknown, a local executive bodies of the cities of republican status, capital, districts, cities of regional status should go to a notary to appoint a trust administrator for the inheritance. In the case of appearance of heirs by law, the estate trust administrator may be revoked pursuant to their request with compensation to him/her of appropriate costs and payment of a reasonable fee at the expense of the inheritance.

4. trust administrator shall exercise the powers, provided for by Article 1059 of this Code with regard to the executor of the will, so long as it does not otherwise result from special considerations of inheriting by law.

5. The trust administrator shall have the right to reimbursement of expenses at the expense of the inheritance associated with the protection of the inheritance and its management; and also to a fee, unless it is otherwise stipulated by his/her agreement with the heirs.

**Footnote. Article 1071 as amended by the Law of the Republic of Kazakhstan No.13 dated December 20, 2004 (shall be enforced since January 1, 2005); No. 414-IV dated March 1, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Chapter 60. Acquisition of Inheritance**

### **Article 1072. Acceptance of Inheritance**

1. To acquire inheritance a heir shall accept it.

2. The acceptance of a portion of the inheritance by an heir means acceptance of the whole inheritance due to him/her, whatever the nature and the whereabouts thereof.

When an heir is called upon to inherit simultaneously on several grounds (by will and by operation of law or by hereditary transition and as the result of opening an inheritance etc.) the heir may accept an inheritance he/she is entitled to on one of these grounds, on several of them or on all of them.

No acceptance of inheritance shall be stipulated by conditions or special clauses.

3. The acceptance of an inheritance by one or several heirs shall not mean an acceptance of inheritance by other heirs.

4. The accepted inheritance shall be recognised as owned by the heir from the date of opening of the inheritance, irrespective of the time of the actual acceptance and also irrespective of the time of state registration of the heir's rights to assets of estate where such a right is subject to state registration.

**Footnote. Article 1072 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan No. 421-IV dated March 25, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 1072-1. Methods of Accepting Inheritance**

1. The inheritance shall be accepted by means of the heir's filing an inheritance acceptance application or an application for a certificate of the right to the inheritance with the notary or personal representative under law at the place of opening of the inheritance.

If an heir's application is passed to the notary by another person or the signature of the heir is mailed on the application shall be attested by a notary, an official empowered to accomplish notarial actions (paragraph 5 of Article 1051 of this Code) or a person empowered to attest powers of attorney in compliance with paragraph 3 of Article 167 of this Code).

An inheritance can be accepted through a representative if the power of accepting an inheritance is specifically established in powers of attorney. No powers of attorney are required for a personal representative to accept an estate.

2. Until and unless the contrary is proven, an heir shall be deemed to have accepted an inheritance if he has committed actions evidencing an actual acceptance of the inheritance, in particular, if the heir:

has commenced possession or administration of assets of the estate;

has taken measures for preserving assets of the estate, protecting it against third persons' encroachments or claims;

has incurred expenses on his/her account towards maintenance of assets of the estate;

has paid the testator's debts or received from third persons amounts of money payable to the testator.

**Footnote. The Code is amended by Article 1072-1 in accordance with the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 1072-2. Term for Acceptance of Inheritance**



1. The inheritance can be accepted within six months after the date of opening of the inheritance.

If the inheritance is opened on the date of the alleged death of a person (paragraph 2 of Article 1042 of this Code) the inheritance can be accepted within six months after the date when the court decision whereby the person is announced dead becomes final, if another day is provided by the court decision.

2. If a right of inheritance emerges for other persons as the result of an heir's disclaimer of an inheritance or an heir's disqualification on the grounds established by Article 1045 of the present Code such person can accept the inheritance within six months after the date of occurrence of their right of inheritance.

**Footnote. The Code is amended by Article 1072-2 in accordance with the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1072-3. Acceptance of Inheritance upon Expiry of Established Term**

1. On the application filed late by a heir as concerning the term set for acceptance of an inheritance (Article 1072-2 of this Code) the court may reinstate the term and recognise the heir as having accepted the inheritance if the heir did not know and was not supposed to know of the opening of the inheritance or if the heir has missed the term due to other legitimate reasons and on the condition that the heir who missed the term set for acceptance of the inheritance has filed his/her application with the court within six months after the time when the causes/reasons for the lateness ceased to exist.

Having recognized an heir as having accepted an inheritance, the court shall determine the shares of all the heirs in the estate and if necessary shall designate measures for safeguarding the rights of the new heir to his (her) entitlement (paragraph 3 of this Article). The certificates of a right of inheritance issued earlier shall be recognized by the court as void.

**Footnote. The Code is amended by Article 1072-3 in accordance with the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1072-4. Transfer of Right to Accept Inheritance (Hereditary Transition)**

If an heir called upon to inherit by will or by operation of law dies after the opening of the inheritance without having accepted it within the established term (Article 1072-2 of this Code), the right of accepting his/her entitlement shall pass to his/her legal heirs, or if all assets of the estate have been left by will, to his/her heirs by will (hereditary transition).

The right of accepting an inheritance by way of hereditary transition is not incorporated into the estate left after the death of such a heir.

If the portion of the term is less than three months, the term shall be extended to reach three months.

Upon the expiry of the term set for inheritance acceptance purposes the heirs of a deceased heir may be recognised by the court as having accepted the inheritance under Article 1072-3 of this Code if the court is of the opinion that the reasons for the lateness are legitimate.

The right of an heir to accept a portion of inheritance as a compulsory share in accordance with Article 1069 of this Code shall not be transferable to his/her heirs.

**Footnote.** The Code is amended by Article 1072-4 in accordance with the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication).

### **Article 1073. Issuing Certificates of Inheritance**

1. A local notary where inheritance is opened, pursuant to the request of an heir shall be obliged to issue to him/her a certificate of inheritance.

2. The certificate inheritance shall be issued upon expiry of six months from the day when inheritance was opened.

When inheriting either by will or by law, certificates may be issued prior to the expiry of the specified period, provided a notary has reliable information that aside the persons who applied to obtain a certificate, there are no more heirs with regard to a given property or the entire inheritance.

3. The issuance of a certificate of inheritance shall be suspended if there is an heir conceived but not yet born before his birth.

**Footnote.** Article 1073 with the change introduced by the Law of the Republic of Kazakhstan dated 21.01.2019 No. 217-VI (shall be enforced upon expiration after ten calendar days after the day of its first official publication).

### **Article 1074. Right of Disclaimer**

1. The heir is entitled to disclaim the inheritance within the period of six months from the opening of the inheritance. If there are good reasons that period may be extended by the court, however not more than for two months.

2. A refusal from the inheritance shall be carried out by way of submission by an heir of an application to a notary in the place of opening the inheritance.

The refusal from an inheritance through a representative shall be possible where the power for such a refusal is specifically stipulated in the power of attorney.

3. The refusal from an inheritance may not be subsequently renounced or revoked.

4. The heir shall lose the right to refuse an inheritance upon expiry of the period granted to him/her for that. He/she shall lose that right also prior to expiry of that period if he/she

actually entered the ownership of inherited estate, or disposed of it or petitioned for documents which certify his/her rights to that property.

5. In the case of a refusal of an inheritance, an heir shall have the right to indicate that he/she repudiates it for the benefit of other persons from among heirs by will or by law of any category, who are called upon inheritance on right of representation.

The refusal of the inheritance for the benefit of heirs who are deprived of the inheritance by their testator shall not be allowed.

6. When an heir is called to inherit both by will and by law, he/she shall have the right to refuse from an inheritance, which is due to him/her on one of those grounds or from the both.

7. An heir shall have the right to refuse an inheritance, which is due to him by the right of gain (Article 1079 of this Code), irrespective of inheritance of the rest of property.

8. Except for the cases stipulated in this Article, a refusal of a part of an inheritance, a refusal from the inheritance with stipulations or under conditions shall not be allowed.

**Footnote. Article 1074 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication); No. 421-IV dated March 25, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1075. Right of Disclaimer of Testamentary Refusal**

1. The beneficiary is entitled to refuse accepting a refusal. The partial refusal, the refusal with stipulations, under conditions or for the benefit of any other person shall not be allowed.

2. The right stipulated in this Article shall not be related to the right of a recipient of testamentary refusal who at the same time is an heir to refuse from inheritance.

3. When a testamentary gift recipient exercises the right stipulated in this Article, an heir encumbered by a testamentary refusal shall be discharged from the duty to execute it.

#### **Article 1076. Division of Inheritance**

1. Any heirs by law who accepted inheritance shall have the right to demand division of an inheritance.

Division of an inheritance shall be carried out by agreement of heirs in accordance with the shares owing to them, and in the case of failure to reach a consensus in accordance with the court procedure.

If the inheritance includes a property, for which heir's rights are not registered and are not recognized as arisen without registration, division of the property between heirs shall be carried out after the registration of rights of the heir in the order established by legislation.

2. The rules of this Article shall apply to division of an inheritance between heirs by will in the cases where all inheritance or a part thereof was bequeathed to heirs in shares without an indication of specific assets.

Footnote. Article 1076 as amended by the Law of the Republic of Kazakhstan No. 421-IV dated March 25, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication);

#### **Article 1077. Rights of Absent Heirs**

1. When among heirs there are persons whose address is unknown, then the other heirs, an executor of a will (administrator of estate) and a notary shall be obliged to take reasonable steps to establish their location and to call them for inheritance.

2. When an absent heir called to inherit whose address is established does not refuse from an inheritance within the period stipulated in Article 1074 of this Code, the other heirs shall be obliged to notify him/her of their intent to carry out division of the estate.

When within three months from the date of a notice stipulated in the preceding paragraph, an absent heir fails to notify the other heirs on his wish to participate in a given agreement on division of an inheritance, the other heirs shall have the right to carry out the division in accordance with their agreement having appropriated the share which is due to the absent heir

3. When within one year from the date that an inheritance opens the address of an absent heir is not established and there is no information on his/her refusal from the inheritance, the other heirs shall have the right to carry out division in accordance with the rules of the second part of paragraph 2 of this Article.

4. When there is a conceived but unborn heir, division of property may be carried out only after the birth of such an heir.

When a conceived heir is born alive, then the other heirs shall have the right to carry out division of property and appropriate the inheritance share owing to him/her. For the protection of the interests of a new born child, a representative of the body of tutelage and guardianship may be invited for the participation in the division.

#### **Article 1078. Priority Right of Certain Heirs to Estate of Inheritance**

1. Heirs who within one year prior to the opening of the inheritance resided together with the testator shall have the priority right to inherit a dwelling, as well as household objects and articles.

2. Heirs, who had the right of joint ownership with the testator with regard to property, shall have the priority right to inherit the property, which was in joint ownership.

3. When priority rights are exercised which are indicated in paragraphs 1 and 2 of this Article, the property interests of other heirs participating in division should be complied with. When property which forms an inheritance is insufficient for granting to them of appropriate shares, the heir who enjoys the priority right should provide to them appropriate monetary or property compensation.

## **Article 1079. Accession of Shares In Succession**

1. In the case of a refusal of an heir from an inheritance or his/her withdrawal due to the circumstances indicated in this Code, the part of the inheritance that was due to such an heir shall be acquired by the heirs by law who are called for inheritance, and it shall be distributed between them in proportion to their inheritance shares.

When the testator bequeathed all his/her property to the heirs appointed by him/her, a part of the property which was allocated to an heir who renounced succession as a heir or to an heir who was withdrawn from the number of heirs, the property shall be acquired by the other heirs by will and it shall be distributed between them in proportion to their inheritance shares, unless otherwise provided in the will.

2. The rules contained in paragraph 1 of this Article shall not apply in the following cases:

- 1) where a sub-heir was appointed to an heir who refused or was withdrawn from the number of heirs;
- 2) where an heir refuses from an inheritance for the benefit of a certain person;
- 3) in the cases where in inheriting by law a refusal or withdrawal of an heir entails calling to inheritance of the next category heirs.

## **Article 1080. Expenditures Subject to Payment at Expense of Inheritance**

The claims to reimburse necessary expenses incurred due to the pre-death illness of the testator, expenses for the funeral of the testator, expenses related to the protection, management of the inheritance, execution of the will, as well as payment of remuneration to the executor of the will or the trust manager of the inheritance shall be satisfied at the expense of the inheritance, before its distribution among the heirs. Those claims shall be subject to compensation out of the property value as a priority before any other claims, including those secured by pledge.

## **Article 1081. Recovery of Debts of Testator by Creditors**

Creditors of the testator shall have the right to file their claims ensuing from liabilities of the testator against the will executor (trust administrator) or to heirs who are liable as several debtors within the limits of property value acquired by each heir.

If the heirs who accepted the inheritance evade the registration of the property included in the inheritance or the rights to it, the inheritor's creditors shall have the right to require compulsory registration.

**Footnote. Article 1081 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Article 1082. Succession of Property of Member of Peasant (Individual) Farm**

On the death of any member of a peasant (individual) farm inheritance shall be opened and succession shall be accomplished on general terms. Heirs shall have the right to receive monetary compensation in proportion to his/her share in the joint ownership of that property.

**Footnote.** Article 1082 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 (shall be enforced upon expiry of ten calendar days after its first official publication).

### **Article 1083. Heirless Property**

**Footnote.** Heading of Article 1083 as amended by the Law of the Republic of Kazakhstan No. 414-IV dated March 1, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication).

1. Where there are neither heirs by will nor by law, nor where none of heirs has the right to inherit (Article 1045 of this Code), or where all of them refused from inheritance (Article 1074 of this Code), the property shall be recognized as heirless.

2. Heirless property shall become communal property where the inheritance was opened.

Organization of the work on counting, keeping, assessment, further use and realization of the heirless property came into community property, shall be carried out by the body authorized to manage the community property.

The procedure of counting, keeping, assessment, further use and realization of the heirless property came into community property, shall be determined by the Government of the Republic of Kazakhstan.

3. Estate shall be recognized as heirless by the court on the basis of a petition of a local executive bodies of cities of republican status, capital, districts, cities of regional status, where the inheritance was opened upon expiry of one year from the date the given inheritance was opened. Property may be recognized as heirless prior to expiry of the specified period if expenditures associated with its protection and management exceeded its value.

4. Protection of heirless property and its management shall be carried out in accordance with Article 1071 of this Code.

5. The rules, specified by the Articles 1080 and 1081 of this Code shall be applied to the heirless property.

**Footnote.** Article 1083 as amended by the Law of the Republic of Kazakhstan No. 276 dated December 24, 2001; No. 13 dated December 20, 2004 (shall be enforced since January 1, 2005); No. 147 dated June 22, 2006; No. 414-IV dated March 1, 2011 (shall be enforced upon expiry of ten calendar days after its first official publication).

## **Section 7**

### **International Private Law**

#### **Chapter 61. General provisions**

## **Article 1084. Determining the Law Governing Civil Legal Relations Involving the Participation of Foreign Persons or Civil Legal Relations Complicated by Another Foreign Factor**

1. The law applicable to civil legal relations involving the participation of foreign citizens or foreign legal entities or civil legal relations complicated by another foreign factor, in particular shall be determined on the basis of this Code, other legislative acts, international treaties ratified by the Republic of Kazakhstan and other recognized international customs.

2. If under paragraph 1 of the present article it is impossible to determine the law subject to application the law of the country with which a civil legal relation complicated by a foreign factor is most closely related shall apply.

3. The rules of this section on determining the law to be applied by the court, respectively, shall be also applied by other bodies authorized to decide the law to be applied.

## **Article 1085. Classification of Legal Concepts (Legal Classification)**

1. Classification of legal concepts (legal Classification) which is carried out by the court shall be based on their interpretation in accordance with the law of the country of the court, unless otherwise provided in the legislative acts.

2. If legal concepts are not known to the law of the country of the court or are known under different name or with different contents and may not be determined by way of interpreting in accordance with the law of the country of the court then when classifying legal concepts (legal classification) the law of the foreign state may also be applied.

## **Article 1086. Establishing Contents of Foreign Law Norms**

1. Where a foreign law is applied a court shall establish the content of its norms in compliance with the official interpretation, application practices and doctrine thereof in the relevant foreign state.

2. For the purpose of establishing contents of standards of foreign law the court may apply in accordance with the established procedure for assistance and explanation to the Ministry of Justice of the Republic of Kazakhstan and other competent bodies and institutions of the Republic of Kazakhstan including those which are abroad or may hire experts.

3. Persons being party to a case may present documents confirming the content of foreign law norms to which they refer to substantiate their claims or objections and provide other assistance to a court in establishing the content of these norms.

4. When contents of standards of foreign law in spite of measures undertaken in accordance with this article within a reasonable period of time are not established the law of the Republic of Kazakhstan shall apply.

## **Article 1087. Reverse Reference and Reference to Law of Third Country**

1. Any reference to foreign law in accordance with the rules of this section, except for the cases stipulated by this article should be considered as reference to material law and not conflict of laws of an appropriate country.

2. The reverse reference to the law of the Republic of Kazakhstan and reference to law of a third country shall be accepted in the cases for applying foreign law in accordance with Article 1094, paragraphs 2, 3, 5 of Article 1095, Article 1097 of this Code.

#### **Article 1088. Consequences of Evading Law**

Agreements and other acts of participants of relations which are regulated by this Code aimed to subject relevant relations to other law evading rules of this section concerning law which is subject to application shall be invalid. In this case the law which is subject to application in accordance with this section shall apply.

**Footnote. Article 1088 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated February 27, 2017 (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1089. Mutuality**

1. The court shall apply foreign law irrespective of whether in a relevant foreign state the law of the Republic of Kazakhstan applies to similar relations, except for the cases when application of the foreign law on the basis of mutuality is provided for by legislative acts of the Republic of Kazakhstan.

2. Where an application of foreign law depends on mutuality it is assumed that it exists, unless otherwise proved.

#### **Article 1090. Stipulations on Public Procedures**

1. Foreign law shall not apply in the cases where its application contradicts the principles of law and order of the Republic of Kazakhstan (public order of the Republic of Kazakhstan). In those cases the law of the Republic of Kazakhstan shall apply.

2. Denial of application of foreign law may not be based only on the difference of legal political or economic system of the relevant foreign state from political or economic system of the Republic of Kazakhstan.

#### **Article 1091. Application of Imperative Norms**

1. The regulations of this section shall not affect the applicability of the imperative norms of the legislation of the Republic of Kazakhstan which, due to indication in the imperative norms themselves or due to their special significance, in particular, for safeguarding the rights and law-protected interests of participants in civil law relations, regulate relevant relations, irrespective of the law that is subject to application.



2. When applying law of any country in accordance with the rules of this section the court may apply imperative rules of law of other country which has close connection with relations, if according to law of that other country such standards shall regulate appropriate relations irrespective of the applicable law. In that case the court should consider the purpose and nature of such standards as well as consequences of their application.

#### **Article 1092. Application of Law of Country with Multiple Legal System**

In the case where law of a country is to be applied in which there are several territorial or other legal systems, the legal system shall be applied in accordance with the law of that country.

#### **Article 1093. Retortions**

Reciprocal limitations (retortions) with regard to the rights of citizens and legal entities of those states, which have special limitations of rights of citizens and legal entities of the Republic of Kazakhstan, may be established by the Republic of Kazakhstan.

### **Chapter 62. Conflict of Law**

#### **Paragraph 1. Persons**

#### **Article 1094. Personal Law of Individual**

1. Personal law of an individual shall be deemed to be the law of the country whose citizenship that person possesses. If a person has two or more citizenships the personal law shall be deemed law of the country to which that person is related most closely.

2. Personal law of a person without citizenship shall be deemed to be the law of the country in which that person resides permanently.

3. The personal law covering refugees shall be deemed to be the law of the country that granted them asylum.

#### **Article 1095. Legal Capacity and Capacity of Individual**

1. The civil legal capacity of an individual shall be defined by his/her personal law. Thus foreign citizens and persons without citizenship shall have civil legal capacity in the Republic of Kazakhstan equally with citizens of the Republic of Kazakhstan, except for the cases established by the legislative acts or international treaties of the Republic of Kazakhstan.

2. Legal capacity of an individual shall be defined by its personal law.

3. Civil capacity of an individual with regard to transactions and obligations which emerge in consequence to inflicting injury shall be determined in accordance with the law of the country where transactions were carried out or where obligations emerged because of inflicting injury.

4. The capacity of an individual to be an individual entrepreneur and to have the rights and obligations connected with that shall be determined in accordance with law of the country where the individual is registered as an individual entrepreneur. If there is no country of registration the law of the country of the principal place of performance of individual entrepreneurial activity shall apply.

5. Recognition of an individual as incapable or with limited capability shall be subject to law of the court country.

**Footnote. Article 1095 as amended by the Law of the Republic of Kazakhstan No. 225 dated January 12, 2007 shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 1096. Recognition of Individual As Missing and Announcement of His/Her Death**

Recognition of an individual as missing

and announcement of his/her death shall be subject to the law of the country of the court.

#### **Article 1097. Name of Individual**

The right of an individual to name, its use and protection shall be defined by his/her private law, unless otherwise ensued from the rules, provided for by paragraphs 5 and paragraph 7 of Article 15, Articles 1103 and 1120 of this Code.

#### **Article 1098. Registration of Acts of Civil Status of Citizens of the Republic Of Kazakhstan Outside Boundaries of the Republic of Kazakhstan**

Registration of civil status acts of the citizens of the Republic of Kazakhstan who reside beyond the boundaries of the Republic of Kazakhstan shall be carried out by the consular institutions of the Republic of Kazakhstan. In that case legislative acts of the Republic of Kazakhstan shall apply.

#### **Article 1099. Recognition of Documents Issued by Bodies of Foreign States to Certify Civil Status Acts**

Documents issued by authorized bodies of foreign states to certify civil status acts performed beyond the boundaries of the Republic of Kazakhstan in accordance with laws of relevant states with regard to citizens of the Republic of Kazakhstan, foreign citizens and persons without citizenship shall be recognized as valid in the Republic of Kazakhstan in presence of legalization.

#### **Article 1100. Law of Legal Entity**

The law of a legal entity shall be deemed to be law of the country where that entity was established.

## **Article 1101. Legal Capacity of Legal Entity**

1. The civil legal capacity of a legal entity shall be defined by the law of the legal entity.

2. A foreign legal entity may not refer to the limitation of the powers of its body or representative with regard to carrying out a transaction which is not known to law of the country in which the body or the representative of the foreign legal entity carried out that transaction.

3. Civil legal capacity of foreign organizations that are not legal entities according to foreign law shall be determined in accordance with the law of the country where an organization is established.

The rules of this Code which regulate activities of legal entities which are commercial organizations shall apply to activities of such organizations if the law of the Republic of Kazakhstan is applicable, unless otherwise ensued from legislation of the Republic of Kazakhstan or essence of an obligation.

## **Article 1102. Participation of the State in Civil and Legal Relations with Foreign Elements**

1. The rules of this section shall apply to civil and legal relations with foreign elements with participation of the state on the general basis, unless otherwise provided for by the legislative acts.

2. In civil-law relations with a foreign element the Republic of Kazakhstan shall use juridical immunity concerning itself and the property from jurisdiction of courts of other state, including judicial immunity, immunity from maintenance of the claim and immunity from compulsory execution of the judicial certificate unless otherwise established:

in the international contract of the Republic of Kazakhstan;

in the written agreement which is not the international contract of the Republic of Kazakhstan;

by the legal statement or notice in writing within the limits of concrete trial.

**Footnote. Article 1102 as amended by the Law of the Republic of Kazakhstan No. 249-I dated February 5, 2010.**

## **Paragraph 2. Personal Non-Property Rights**

### **Article 1103. Protection of Personal Non-Property Rights**

The law of the country where an action or any other circumstance has taken place which serves as the basis for claim to protect such rights shall apply to personal non-property rights.

## **Paragraph 3. Transactions, Representation, Limitation of Action**

### **Article 1104. Form of Transaction**

1. Form of transactions shall be subject to law of the place where it was carried out. However, transactions carried out abroad may not be recognized as invalid in consequence of non-compliance with its form if the requirements of law of the Republic of Kazakhstan are complied with.

2. Foreign economic transactions to which at least one of the parties is a legal entity of the Republic of Kazakhstan or a citizen of the Republic of Kazakhstan shall be carried out in writing irrespective of the place of conclusion of the transaction.

3. Form of a transaction with regard to immovable property shall be subject to the law of the country where that property is located, and with regard to immovable property which is entered into the State Register in the Republic of Kazakhstan - to law of the Republic of Kazakhstan.

#### **Article 1105. Power of Attorney**

Form and validity period of a Power of Attorney shall be determined in accordance with the law of the country where the Power of Attorney was issued. However, a Power of Attorney may not be recognized as invalid in consequence of non compliance with the form provided the latter complies with the requirements of the law of the Republic of Kazakhstan.

#### **Article 1106. Limitation of Action**

1. The limitation of action shall be determined in accordance with the law of the country that is applicable for regulation of relevant relation.

2. The requirements to which the limitation of action not apply shall be determined in accordance with the law of the Republic of Kazakhstan where at least one of the participants of relevant relation is a citizen of the Republic of Kazakhstan or a legal entity of the Republic of Kazakhstan.

#### **Paragraph 4. Property Rights**

#### **Article 1107. General Provisions Concerning Law Applicable to Property Rights**

1. The right of ownership and other property rights to immovable and movable property shall be determined in accordance with the law of the country where those properties are located, unless otherwise provided for by the legislative acts of the Republic of Kazakhstan.

2. The recognition of properties as movable or immovable property as well as other categorization of assets shall be determined in accordance with the law of the country where the property is located.

#### **Article 1108. Emergence and Termination of Proprietary Interests in Property**

1. Emergence and termination of proprietary interests in property shall be determined in accordance with law of the country where those properties were located at the moment when

the action or any other circumstance has taken place which served as the base for emergence or termination of property rights, unless otherwise provided for by the legislative acts of the Republic of Kazakhstan.

2. Emergence and termination of proprietary interests in property which are subject of transaction shall be determined in accordance with the law of the country to which that transaction is subordinated, unless otherwise provided by the contract of the parties.

3. The emergence of the right of ownership with regard to assets in consequential of prescription shall be defined by the law of the country where the property was at the moment of termination of the period of prescription.

#### **Article 1109. Property Rights to Transport Vehicles and Other Properties Which Are Subject to Entering in State Register**

Property rights to transport vehicles and other properties which are subject to the state registration shall be determined in accordance with law of the country where those transport vehicles or property are entered into the State Register.

#### **Article 1110. Property Rights to Movable Properties In Transit**

The right of ownership and other property rights to movable properties which are in transit under a transaction shall be determined in accordance with law of the country from which those assets were shipped, unless otherwise stipulated in the contract of the parties.

#### **Article 1111. Protection of Property Rights**

1. The law of the country where properties are located or the law of the country of the court shall apply to the protection of the rights of ownership and other property rights at the discretion of an applicant.

2. Law of the country in which those properties are located shall apply to the protection of the right of ownership and any other property rights to immovable properties. With regard to property, which is entered into the State Register of the Republic of Kazakhstan, the law of the Republic of Kazakhstan shall apply.

#### **Paragraph 5. Contractual Obligations**

#### **Article 1112. Selection of Law by Agreement of Contractual Parties**

1. Contract shall be regulated by the law of the country selected by agreement of the parties, unless otherwise provided in the legislative acts of the Republic of Kazakhstan.

2. Agreement of the parties concerning selection of applicable law should evidently express or directly ensue from provisions a contract and circumstances of business being considered in total.

3. Parties to a contract may select applicable law both for the contract as a whole and for its separate parts.

4. The selection of applicable law may be carried out by the parties to a contract at any time both when entering into the contract and subsequently. The parties may also at any time agree to alter the law applicable to the contract.

### **Article 1113. Law Governing to Contract in the Case of Lack of Parties' Agreement on Applicable Law**

1. When there is no agreement of the parties to a contract with regard to the law which is applicable to that contract the law of the country shall apply where a party defined as follows was found or has the place of residence or principal place of business:

- 1) seller - in the purchase and sale contract;
- 2) donator - in the donation contract;
- 3) lessor or landlord - in the contract for property lease (lease);
- 4) lender - in contract for the gratuitous use of property;
- 5) contractor - in the contractor agreement;
- 6) carrier - in the transportation contract;
- 7) forwarding agent - in the transport forwarding contract;
- 8) creditor - in the loan or other credit contract;
- 9) agent - in the contract of agency ;
- 10) commissioner - in the commission contract;
- 11) custodian - in the custody contract;
- 12) insurer - in the insurance contract;
- 13) guarantor - in the guarantee contract ;
- 14) pledger - in the pledge contract;
- 15) licensor - in the license contract on use of exclusive rights.

2. Law of the country where that property is located shall apply to the rights and obligations under the contract the scope of which is property as well as under the contract on property trust management, and with regard to property which is entered into the State Register of the Republic of Kazakhstan - the law of the Republic of Kazakhstan.

3. If there is no agreement of the parties to a contract with regard to applicable law irrespective of the provisions of paragraph 1 of this Article the following shall apply:

1) to contracts on joint activities and construction contracts the law of the country where such activities are carried out or results are created as stipulated in the contract.

2) to the contract concluded in accordance with results of bidding (tender, auction) or at an exchange - the law of the country where the auction takes place or an exchange is located.

4. To the contracts which are not listed in paragraphs 1, 3 of this Article when there is no agreement of the parties on applicable law the law of the country shall apply where the party which carries out execution which has decisive significance for the contents of such contract

is founded, has place of residence or principal place of business. If it is impossible to determine execution which has principal significance to the contents of the contract the law of the country to which the contract is the most closely related shall apply.

5. The law of the place of carrying out formal acceptance with regard to such formal acceptance of execution under the contract shall be taken into consideration, since the parties did not agree otherwise.

6. If commercial terms accepted in international turns of speech are used in the contract then when there are no other indications it shall be considered that the parties have agreed to apply usual business turns of speech to their relations which exist with regard to appropriate commercial terms.

#### **Article 1114. Law Governing Contracts on Creation of Legal Entity with Foreign Participation**

1. The law of the country where a legal entity is to be founded or has been founded shall apply to the contracts on formation of a legal entity with foreign participation.

2. Relations being regulated by this article shall comprise relations associated with creation and termination of a legal entity, transfer of share of participation in it and other relations between participants of a legal entity connected with their mutual rights and obligations (in particular those determined by subsequent contracts).

3. Provisions of this Article shall apply also in the case of establishing mutual rights and obligations of participants of a legal entity with foreign participation by other foundation documents.

#### **Article 1115. Sphere of Application of Applicable Law**

1. The law, which is applicable to contracts by virtue of provisions of this paragraph, shall comprise in particular the following:

- 1) interpretation of the contract;
- 2) rights and obligations of the parties;
- 3) execution of the contract;
- 4) consequences of a failure to execute or improper execution of the contract;
- 5) termination of that contract;
- 6) reasons and consequences of invalidity of the contracts;
- 7) assignment of claims and transfer of debt in connection to the contract.

2. With regard to method and procedure for execution as well as measures which should be taken in the case of improper execution, except for applicable law also the law of the country in which execution takes place shall be taken into account.

#### **Paragraph 6. Non-Contractual Obligations**

#### **Article 1116. Obligations of Unilateral Transactions**

The law of the point of transaction shall apply to obligations of unilateral transactions (public promise of award, activities in somebody else interests without instruction etc.). The place of carrying out a unilateral transaction shall be determined in accordance with the law of the Republic of Kazakhstan.

#### **Article 1117. Obligations in Consequence of Infliction of Injury**

1. The rights and obligations under commitments which emerge in consequence of infliction of injury shall be determined in accordance with the law of the country where the action took place or any other circumstances which cause the basis for claims to compensate for injury.

2. The rights and obligations under commitments which emerge in consequence of infliction of injury abroad where the parties are citizens or legal entities of the same state shall be determined in accordance with the law of that state.

3. Foreign law shall not apply if an action or other circumstances that serve as the basis for claims to compensate injury in accordance with the legislative acts of the Republic of Kazakhstan is not unlawful.

#### **Article 1118. Responsibility for Loss Caused to Consumer**

At a consumer's discretion to claims on compensation of losses caused to the consumer in connection with purchase of goods or rendering services shall apply the following:

- 1) the law of the country where the place of residence of the consumer is located;
- 2) the law of the country where the place of residence or location of a manufacturer or person who has rendered the service is;
- 3) the law of the country where a consumer has purchased goods or where the service has been rendered to him.

#### **Article 1119. Unreasonable Enrichment**

1. To circumstances, which emerge in consequence of unreasonable enrichment, the law of the country where the enrichment took place shall apply.

2. If unreasonable enrichment emerges in consequence of cessation of the basis according to which property was purchased or saved an applicable law shall be determined in accordance with the law of the country to which that basis was subject.

3. The concept of unreasonable enrichment shall be defined in accordance with the law of the Republic of Kazakhstan.

#### **Paragraph 7. Intellectual Property**

#### **Article 1120. Rights to Intellectual Property**



1. The law of the country where protection of such rights is sought shall apply to intellectual property rights.

2. Contracts having the rights to intellectual property as a scope shall be regulated by law being determined in accordance with the provisions of this section concerning contractual obligations.

## **Paragraph 8. Inheritance Law**

### **Article 1121. Relations Connected with Inheritance**

The relations connected with inheritance shall be determined in accordance with the law of the country where the testator had the last permanent place of residence, unless otherwise provided for by Articles 1122 and 1123 of this Code, if the testator did not select in his/her will the law of the country to which he/she is a citizen.

### **Article 1122. Capability of Persons with Regard to Drawing Up and Renunciation of Wills, Forms of Wills and Acts of Their Renunciation**

Capability of a person to draw up or renounce a will as well as the form of the will and act of its abolition shall be defined in accordance with the law of the country where the testator had permanent place of residence at the moment of drawing up the act, unless the testator selected in the will the law of the country to which he was a citizen. However, a will or its abolition may not be recognized as invalid in consequence of a failure to comply with the form if the latter satisfies the requirements of the law of the place of drawing up an act or with requirements of the Republic of Kazakhstan.

### **Article 1123. Inheritance of Immovable Property and Property Which is Subject to Entering into the State Register**

Inheritance of immovable property shall be determined by the law of the country where the property is located, and the property, which is registered in the public register of the Republic of Kazakhstan - by the law of the Republic of Kazakhstan. The same right shall be determined by the ability of a person to make or revoke a will, and the form of the latter if bequeathed the specified property.

## **Paragraph 9. Tutorship and Guardianship**

### **Article 1124. Tutorship and Guardianship**

1. Guardianship and tutorship over minors, adults having no dispositive capacity or having a limited dispositive capacity shall be appointed and terminated according to the personal law of the person over which it is appointed or terminated.

2. The tutor's (guardian) duty to accept guardianship (custody) shall be determined according to personal law of a person who is appointed as a tutor (custodian).

3. Legal relations between a tutor (guardian) and a person being under guardianship and tutorship shall be determined according to the law of the country whose institution has appointed the tutor (guardian). However, in the case of a person being under guardianship and tutorship resides in the Republic of Kazakhstan then the law of the Republic of Kazakhstan shall apply if it is more favorable for this person.

4. Guardianship and tutorship established over citizens of the Republic of Kazakhstan who reside beyond the boundaries of the Republic of Kazakhstan shall be recognized as valid in the Republic of Kazakhstan if there are no objections based on the law of an appropriate consular institution of the Republic of Kazakhstan against establishing guardianship and tutorship or against its recognition.

*President  
of the Republic of Kazakhstan*