

**On approval of the Rules for the use of lump-sum pension payments to improve housing conditions in accordance with the legislation of the Republic of Kazakhstan**

***Unofficial translation***

Order of the Minister of Industry and Infrastructural Development of the Republic of Kazakhstan dated January 21, 2021 No. 24. Registered with the Ministry of Justice of the Republic of Kazakhstan on January 21, 2021 No. 22100.

*Unofficial translation*

      In accordance with subclause 10-27) of Article 10-2 of the Law of the Republic of Kazakhstan dated April 16, 1997 “On Housing Relations”, **I HEREBY ORDER**:

      1. to approve the attached Rules for the use of lump-sum pension payments to improve housing conditions in accordance with the legislation of the Republic of Kazakhstan.

      2. Committee for construction and housing and communal services of the Ministry of Industry and Infrastructural Development of the Republic of Kazakhstan in accordance with the procedure, established by the legislation shall ensure:

      1) state registration of this order with the Ministry of Justice of the Republic of Kazakhstan;

      2) placement of this order on the Internet resource of the Ministry of Industry and Infrastructural Development of the Republic of Kazakhstan.

      3. Control over execution of this order shall be entrusted to the supervising Vice-Minister of Industry and Infrastructural Development of the Republic of Kazakhstan.

      4. This order shall be enforced from the date of its first official publication and shall apply to relations arisen from January 1, 2021.

|  |
| --- |
| *Minister of Industry and* |
| *Infrastructural Development* |
| *of the Republic of Kazakhstan* | *B. Atamkulov* |

      “APPROVED”

Ministry of Labor and

Social Protection of Population

of the Republic of Kazakhstan

      “APPROVED”

Agency of the Republic of Kazakhstan

for Regulation and Development

of Financial Market

|  |  |
| --- | --- |
|  | Approved by the order  of the Minister of Industry and  Infrastructural Development of the Republic of Kazakhstan dated January 21, 2021 No. 24 |

**Rules**   
**for the use of lump-sum pension payments to improve housing conditions in accordance with the legislation of the Republic of Kazakhstan**

**Chapter 1. General provisions**

      1. These Rules for the use of lump-sum pension payments to improve housing conditions in accordance with the legislation of the Republic of Kazakhstan (hereinafter referred to as the Rules) have been developed in accordance with subclause 10-27) of Article 10-2 of the Law of the Republic of Kazakhstan dated April 16, 1997 “On Housing Relations”, the Law of the Republic of Kazakhstan dated June 21, 2013 “On Retirement Insurance in the Republic of Kazakhstan” (hereinafter referred to as the Law), and shall determine the procedure for the use of lump-sum pension payments to improve housing conditions in accordance with the legislation of the Republic of Kazakhstan.

      2. In these Rules, the following concepts are used:

      1) recipient – an individual who uses his/her lump-sum pension payments and (or) lump-sum pension payments of his/her spouse (wife) and (or) close relatives to improve housing conditions in the manner prescribed by these Rules;

      2) lump-sum pension payment – an amount of pension savings, formed at the expense of mandatory pension contributions and (or) mandatory occupational pension contributions, withdrawn by the contributor (recipient) from the Unified Pension Savings Fund (hereinafter referred to as the UPSF) in order to improve housing conditions and (or) pay for treatment, in the manner, established in accordance with subclause 2-1) of Article 1 of the Law;

      3) special accounts for lump-sum pension payments (hereinafter referred to as the special account) – a current bank account opened by the recipient of lump sum pension payments from an authorized operator, determined by the Government of the Republic of Kazakhstan for crediting lump sum pension payments from UPSF in order to improve housing conditions and (or) pay for treatment;

      4) close relatives – parents (parent), children, adoptive parents (adopters), adopted (adopted), full and half brothers and sisters, grandfather, grandmother, grandchildren;

      5) applicant – a contributor (recipient) claiming lump sum pension payments from UPSF in accordance with the Law;

      6) authorized operator – a legal entity (legal entities) determined (determined) by the Government of the Republic of Kazakhstan performing (performing) opening and maintaining special accounts for lump-sum pension payments from UPSF in order to improve housing conditions and (or) pay for treatment, to which UPSF transfers lump-sum pension payments from pension savings formed from mandatory pension contributions and (or) mandatory occupational pension contributions;

      7) registering body – State Corporation “Government for citizens”, which carries out state registration at the location of immovable property;

      8) electronic digital signature (hereinafter referred to as the EDS) – a set of electronic digital symbols created by means of electronic digital signature and confirming reliability of an electronic document, its belonging and invariability of its content.

**Chapter 2. Procedure for the use of lump-sum pension payments to improve housing conditions**

      3. In order to use of lump-sum pension payments to improve housing conditions, an applicant shall independently receive from UPSF information about available amount of a lump-sum pension payment, including via the Internet resource of UPSF.

      4. The applicant, by means of EDS or other electronic means established by the internal document of the authorized operator, shall log in to the Internet resource of the authorized operator and opens his personal account, in which he / she submits an application for opening a special account.

      The applicant may also open a special account in another way, established by the internal document of the authorized operator.

      After opening a special account, the applicant fills out electronic applications for a one-time pension payment for improving housing conditions, indicating the number of the special account, the purpose of use, the amount available, the methods of withholding and transferring individual income tax, specified in Article 353-1 of the Code of the Republic of Kazakhstan dated December 25, 2017 “On Taxes and Other Obligatory Payments to the Budget (Tax Code)”, certified by the applicant’s EDS.

      5. It shall be allowed to use lump-sum pension payments for the following purposes of improving housing conditions in the territory of the Republic of Kazakhstan in accordance with the legislation of the Republic of Kazakhstan:

      1) full settlement on civil-legal transactions, associated with the acquisition in the property of dwellings under agreements on sales and purchase, privatization, hire-purchase, exchange (barter) of a dwelling, under agreements on co-investing into construction of a residential housing in the presence of a guarantee in accordance with the legislation on co-investing into construction of a residential housing or when entering into agreement on the transfer of a share in an apartment building in accordance with the legislation on co-investing into construction of a residential housing, as well as for construction of an individual dwelling (including purchase of a land plot with a designated purpose – individual housing construction or personal subsidiary farming);

      2) making an initial contribution to receive a mortgage loan for the purchase of a dwelling and (or) a dwelling with repairs under one bank loan agreement, partial or complete repayment of debt on a mortgage loan for the purchase of a dwelling place and (or) a dwelling place with repairs under an agreement on a bank loan, refinancing of a mortgage housing loan;

      3) receipt, partial or full repayment of debt, refinancing of a mortgage housing loan for the purchase of a dwelling and (or) a dwelling with repairs under one bank loan agreement, construction of an individual residential house (including the acquisition of a land plot with a designated purpose - individual housing construction or personal subsidiary farming) under the system of housing construction savings;

      4) Acquisition of a dwelling within the framework of financing by an Islamic bank, partial, full repayment of debts within the framework of financing by an Islamic bank of a transaction for the acquisition of a dwelling;

      5) Partial or full repayment of debt under agreements on long-term rent with the right of repurchase, provided within the framework of housing construction programs and anti-crisis programs.

      6. The lump-sum pension payments shall be used any number of times in case of meeting the requirements, set forth in clause 1 of Article 30, clause 1-1 of Article 31 and (or) clause 1-1 of Article 32 of the Law, within the goals defined in clause 5 of these Rules.

      7. In accordance with the requirements, established by clause 1 of Article 30, clause 1-1 of Article 31 and (or) clause 1-1 of Article 32 of the Law, it is allowed for the recipient to use lump-sum pension payments belonging to the applicant (s) represented by the spouse (s) and (or) close relatives for the purposes specified in clause 5 of these Rules.

      Using by the recipient the lump sum pension payments assigned by the applicant (s) represented by the spouse (s) and (or) close relatives, the parties shall enter into an agreement in their personal account on the assignment of lump sum pension payments, which is certified by their EDS or other electronic method established by the internal a document of an authorized operator with the attachment of documents confirming marriage (matrimony) or family relationship.

      8. The presence of a dwelling in the property of the recipient shall not be a basis for refusing to receive and use of the lump-sum pension payments.

      9. Use of the lump-sum pension payments to improve housing conditions shall be carried out in a non-cash way.

      If the amount of lump-sum pension payments is insufficient for the purposes provided for by these Rules, it shall be allowed to use own funds.

      10. Use of the lump-sum pension payments for the purchase of immovable property from the spouse, close relatives of the recipient shall not be allowed.

      11. Sale of immovable property registered in ownership using lump-sum pension payments shall not be allowed for 5 (five) years, except for cases of:

      1) sale of pledged immovable property by the pledgee in accordance with the Law of the Republic of Kazakhstan “On Mortgage of Immovable Property” of the Republic of Kazakhstan;

      2) sale of immovable property by decision of the court in accordance with the procedure, provided for by the legislation of the Republic of Kazakhstan.

      In the case specified in subclause1) of this clause, the amount of the lump-sum pension payment shall be subject to return by the pledgee to the recipient's special account opened with an authorized operator within 5 (five) working days.

      The authorized operator shall transfer the amount of the lump sum pension payment to UPSF within the time limits established by the relevant agreement on the interaction between the authorized operator and UPSF.

      The norm specified in this clause for the alienation of real estate registered in ownership using lump-sum pension payments shall apply only to mortgage housing loans with a remaining maturity of more than 5 years and for which there is an outstanding debt.

      In order to control the implementation of this clause, the recipient in his / her personal account on the date of transfer of the lump sum pension payment shall sign an obligation of restriction of the sale of real estate on which the lump sum pension payment was used, which he / she certifies the EDS or in another electronic way established by the internal document of the authorized operator.

      12. The authorized operator shall approve by internal documents the procedure and terms for consideration of applicants' applications for the lump-sum pension payments, the list of necessary documents to confirm the intended purpose of lump-sum pension payments to improve housing conditions, methods of their provision and places this information on its own Internet resource.

      13. The authorized operator represented by the Joint Stock Company "Housing Construction Savings Bank" Otbasy Bank "(hereinafter referred to as the Otbasy Bank) shall accept applications from applicants for the lump-sum pension payments for the purposes specified in clause 5 of these Rules and considers them in the manner and manner and within the time limits established by internal documents of Otbasy Bank.

      Otbasy Bank, within 2 (two) working days after considering the applicant's application for a lump-sum pension payment, shall send information about registered applications to UPSF as part of an electronic notification in the manner prescribed by the relevant agreement concluded with UPSF.

      UPSF, within 5 (five) working days from the date of receipt of the electronic notification from Otbasy Bank shall transfer the amount of the lump-sum pension payment to Otbasy Bank, which credits it to the applicant's special account.

      The recipient, after receipt of funds to a special account, shall provide Otbasy Bank with documents confirming the intended purpose of lump-sum pension payments for the purposes specified in clause 5 of these Rules, within 45 (forty-five) working days from the date of their receipt.

      In case of failure to provide supporting documents within the prescribed period, these funds shall be subject to return to UPSF.

      In case of assignment, the lump-sum pension payments shall be transferred from the applicant’s special account to the recipient’s special account within 3 (three) working days from the date of submission of supporting documents.

      Otbasy Bank verifies the documents provided by the recipient for the intended purpose of lump-sum pension payments within 10 (ten) working days from the date of their submission and transfers the lump-sum pension payments to their intended purpose.

      14. Authorized operators represented by second-tier banks (hereinafter referred to as the Bank) accept the applicant's applications for a lump-sum pension payment and the recipient's documents for the purposes specified in subclause 2) of clause 5 of these Rules, and consider them in the manner and within the time limits established by the internal documents of the Bank.

      The Bank, within 2 (two) working days after consideration and approval of the application, shall send information about the registered applications for the lump-sum pension payments to UPSF as part of an electronic notification in the manner prescribed by the relevant agreement concluded with UPSF.

      Within 5 (five) working days from the date of receipt of the electronic notification from the bank, UPSF transfers the amount of the lump-sum pension payment to the bank, which credits it to the applicant's special account with further use for the intended purpose specified in the application for the lump-sum pension payment.

      In case of assignment, the lump-sum pension payments shall be transferred from the special account of the applicant to the special account of the beneficiary within 3 (three) working days from the date of submission of supporting documents.

      The bank transfers the lump-sum pension payments for their intended purpose within 3 (three) working days from the date of crediting the lump-sum pension payments to the special accounts of the applicant (recipient).

      15. Authorized operators submit to UPSF on a monthly basis details of accepted and approved applications for the lump-sum pension payments.

      On a monthly basis, UPSF submits consolidated information about accepted and approved applications for the lump-sum pension payments to the central executive body, which carries out management, as well as within limits set forth by the legislation of the Republic of Kazakhstan, intersectoral coordination in the field of social protection of population.

© 2012. «Institute of legislation and legal information of the Republic of Kazakhstan» of the Ministry of Justice of the Republic of Kazakhstan