

Penal Execution Code of the Republic of Kazakhstan

Unofficial translation

Law of the Republic of Kazakhstan dated 5 July 2014 № 234-V.

Unofficial translation

Footnote. The table of contents is excluded by the Law of the Republic of Kazakhstan dated 24.11.2021 № 75-VII (shall be enforced ten calendar days after the day of its first official publication).

GENERAL PART

SECTION 1. GENERAL PROVISIONS

Chapter 1. LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN

DETERMINING PROCEDURE FOR EXECUTING PENALTIES AND OTHER MEASURES OF CRIMINAL EFFECT

Article 1. Penal execution legislation of the Republic of Kazakhstan

1. Penal execution legislation of the Republic of Kazakhstan is based on the Constitution of the Republic of Kazakhstan and generally accepted principles and rules of international law and consists of this Code, Laws and other regulatory legal acts establishing the procedure and conditions of executing and serving sentences and other measures of criminal effect.

2. Subordinate regulatory legal acts establishing the procedure and conditions of executing and serving sentences and other measures of criminal effect may not establish restriction of rights, freedoms and legal interests of convicted persons, if such are not provided by the Law.

3. International treaties ratified by the Republic of Kazakhstan shall have a priority over this Code and be applied directly, except for the cases when it follows from the international treaty that for its applying the issuance of the Law is required.

Article 2. Force of the penal execution legislation of the Republic of Kazakhstan in space and time

1. Penal execution legislation of the Republic Kazakhstan shall be applied to convicted persons in respect of whom the punishments or other measures of criminal effect are executed in the territory of the Republic of Kazakhstan.

2. Execution and serving of sentences and other measures of criminal effect, using a cure to convicted persons, as well as rendering of assistance to released convicted persons shall be carried out in accordance with the legislation of the Republic of Kazakhstan being in force as from the date of their execution.

Article 3. Explanation of several definitions contained in the Code

Definitions contained in the Code shall be applied in the following meaning:

1) video surveillance system - a set of video surveillance cameras, data transmission lines, program and technical means and storage of video recordings, as well as program and (or) technical means of management, carrying out information exchange between each other;

1-1) Bodies executing punishments - bodies executing punishments in the form of arrest, punishments not connected with isolation of the convicted person from society, and other measures of criminal-legal influence;

2) sentence serving regime – procedure for execution and serving of sentences established by the Code and other regulatory legal acts;

3) authorized body in the scope of penal execution activity – central executive body carrying out management in the scope of penal execution activity;

4) correctional (penitentiary) system (hereinafter – correctional system) – a system of bodies and institutions carrying out executive and regulatory functions on ensuring the execution of criminal punishments, as well as organizations ensuring functioning of mentioned bodies and institutions;

5) institution of criminal-executive (penitentiary) system (hereinafter referred to as the institution) - a state institution intended for execution of punishments in the form of imprisonment;

6) authorized body of correctional (penitentiary) system (hereinafter – authorized body of correctional system) – department of authorized body in the scope of penal execution activity within the competence, carrying out control and (or) realization functions;

7) a probation is the system of activities and individually defined measures of control and social and legal manner directed to correction of behavior of persons whose categories are defined by the law, for prevention of criminal infranctions by them;

8) probation service is the body of correctional (penitentiary) system which is carrying out executive and administrative functions on ensuring execution of criminal penalties without isolation from society and also to the organization and functioning of a probation;

9) probational control is the activities of authorized bodies for control of execution by the persons staying on their registry, the duties assigned to them by the law and court;

10) correction of convicted person – formation of law abiding behavior, positive relation to a person, society, labor, regulations, rules and ethics of public behavior.

11) the isolated sites of pre-trial detention centers are rooms of pre-trial detention centers with cells for convicted to imprisonment and also convicted to arrest.

Footnote. Article 3 with the changes made by laws of the Republic of Kazakhstan dated 30.12.2016 № 39-VI (shall be enforced after ten calendar days after day of its first official publication); dated 18.04.2017 № 58-VI (shall be enforced after ten calendar days after day of its first official publication); dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication); dated 16.05.2024 № 82-VIII (shall be enforced upon expiry of ten calendar days after its first official publication).

Chapter 2. GENERAL QUESTIONS OF EXECUTING PUNISHMENTS AND OTHER MEASURES OF CRIMINAL EFFECT

Article 4. Purposes and tasks of penal execution legislation of the Republic of Kazakhstan

1. The purposes of penal execution legislation of the Republic of Kazakhstan are rectification of social injustice, correction of convicted persons, prevention of committing new criminal infractions as by convicted persons and the other persons as well.

2. In accordance with mentioned purposes, the tasks of penal execution legislation of the Republic of Kazakhstan are:

- 1) regulation of procedure and conditions of executing and serving sentences and other measures of criminal effect;
- 2) determination of the cure of convicted persons;
- 3) protection of rights and freedoms and convicted persons;
- 4) rendering of assistance to convicted persons in a social adaptation.

3. Execution of punishments and other measures of criminal effect doesn't aim to infliction of physical sufferings and abasement of human dignity.

Article 5. Principles of penal execution legislation of the Republic of Kazakhstan

Penal execution legislation of the Republic of Kazakhstan shall be based on the principles of:

- 1) compliance with rights, freedoms and legal interests of a human and citizen;
- 2) legality;
- 3) humanism;
- 4) differentiation of conditions of executing punishments;
- 5) individualization of executing the punishment and other measures of criminal effect;
- 6) rational appliance of the enforcement measures;
- 7) connection of punishment with correctional treatment;
- 8) stimulation of law abiding and active behavior of convicted persons valuable to community.

Article 6. Ground for execution of punishment and other measures of criminal effect

Ground for execution of punishment and other measures of criminal effect is a decision or regulation of the court that entered into a legal force, the act of amnesty and its applying, the act of pardon.

Article 7. Basic cure of convicted persons

1. Basic cure of convicted persons are:

- 1) sentence serving regime;
- 2) educational impact;
- 3) maintenance of positive social relations;
- 4) labour being valuable to community;

5) receipt of basic, main secondary, general secondary, technical and professional education;

6) social influence.

2. Cure of convicted persons shall be applied in recognition of the type of punishment, nature, degree of social danger, form of guilty and motives of committed criminal infraction, personality of convicted person and his (her) behavior during serving a sentence.

Article 8. Participation in community in correcting convicted persons

1. Guardian councils and public supervisory boards, committees of the parents of convicted persons, professional unions, labour collectives, public associations registered in the manner established by the legislation of the Republic of Kazakhstan, religious associations, public and welfare funds, political parties, other organizations, as well as citizens may participate in correction of convicted persons as follows:

1) conduct of sociological and other monitorings;

2) participation in development and public consultation of the draft regulatory legal acts in the scope of penal execution activity;

3) participation in investigation, provision, distribution and supervision of using humanitarian and beneficent help to convicted persons;

4) development and realization of programs and projects oriented to improvement of the activity of correctional system and social legal assistance to convicted persons;

5) rendering of other assistance to institutions and bodies executing punishments and other measures of criminal effect in forms that are not inconsistent with the legislation of the Republic of Kazakhstan.

2. Persons mentioned in part one of this Article shall not have the rights to divulgate details that became known to them about private life of convicted persons without his (her) agreement.

Violation of mentioned requirement shall entail responsibility established by the Law.

Chapter 3. LEGAL PROVISION OF CONVICTED PERSONS

Article 9. Grounds of legal provision of convicted persons

1. The Republic of Kazakhstan respects and protects the rights, freedoms and legal interests of convicted persons, ensures legality of applying their cure, as well as legal protection and personal security.

2. Convicted persons shall have the rights, freedoms and incur obligations of the citizens of the Republic of Kazakhstan with restrictions established by the Constitution, Criminal Code and other Laws of the Republic of Kazakhstan.

3. Convicted foreign persons and stateless persons shall enjoy the rights and freedoms, as well as incur obligations established for citizens in the Republic of Kazakhstan, unless otherwise provided by the Constitution, Laws of the Republic of Kazakhstan and international treaties.

4. Rights and obligations of convicted persons, as well as restriction of their rights shall be determined by this Code proceeding from procedure and conditions for execution of particular type of punishments and other measures of criminal effect.

5. Convicted persons may not be subject to any discrimination based on origin, social, official and property situation, gender, race, nationality, language, confession, convictions, residence place or any other circumstances.

6. Upon admission of a convicted person into institution or body executing the punishment, the administration shall be obliged to provide in written form and explain information about his (her) rights, obligations and legal restrictions, as well as internal regulations of institutions or bodies executing punishments against signature.

Article 10. Basic rights of convicted persons

1. Convicted persons shall have the right to:

1) receipt of information on procedure, conditions of serving a sentence and their changes from institutions or bodies executing punishment;

2) application with petition on clemency in the name of the President of the Republic of Kazakhstan in accordance with the legislation of the Republic of Kazakhstan;

3) application with oral and written suggestions, applications and complaints to administration of the institution or body executing the punishment, to their superior bodies, court, prosecution bodies, other state bodies and to civil servants, in public associations, as well as international organizations on protection of human rights and freedoms in accordance with the legislation of the Republic of Kazakhstan;

4) recognition of their human dignity, protection from tortures, violence, other cruel treatment or punishment or treatment or punishment degrading human dignity;

5) personal security during serving a sentence;

6) giving of explanations and carrying on correspondence, as well as applying with suggestions, applications and complaints in the first language or any other language that they may speak, use of the services of an interpreter in cases provided by the Law;

7) receiving qualified legal assistance, including within the framework of the provision of state-guaranteed legal assistance, in the form of consultations, certificates, drafting documents of a legal nature, as well as in the preparation of documents submitted during the execution of sentences and court decisions in cases provided for in the first paragraph of part third article 475 and paragraphs 4), 5), 5-1), 11), 13), 15), 17), 19) and 22) of article 476 of the Criminal Procedure Code of the Republic of Kazakhstan, as well as in another form in the manner prescribed laws of the Republic of Kazakhstan;

8) protection of health and receipt of competent medical treatment in accordance with the legislation of the Republic of Kazakhstan in the field of health care service;

9) psychological aid rendered by servants of psychological service of the institution and by other persons having the right to rendering of such aid;

10) social and pension provision in accordance with the legislation of the Republic of Kazakhstan on social protection;

11) safe working conditions, rest, vacation, as well as payment for labour in accordance with the labour legislation of the Republic of Kazakhstan.

Convicted persons shall have the other rights in accordance with this Code, regulatory legal acts establishing the procedure and conditions for execution and serving of sentences and other measures of criminal effect.

2. Convicted foreign persons and stateless persons shall have the right to communicate with diplomatic representations and consular institutions of own states accredited in the Republic of Kazakhstan, and citizens of countries that do not have diplomatic and consular institutions accredited in the Republic of Kazakhstan shall have the right to communicate with diplomatic representations of the states that took upon protection of their interests or with international organizations carrying out their protection.

3. Convicted persons with disabilities who have speech or hearing or vision disorders have the right to use the services of specialists who speak dactylic-sign language or Braille.

4. Convicted persons may not be subject to clinical examinations.

Footnote. Article 10 as amended by the Law of the Republic of Kazakhstan dated 09.06.2021 № 49-VII (shall be enforced ten calendar days after the day of its first official publication); dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication); dated 20.04.2023 № 226-VII (shall be enforced from 01.07.2023).

Article 11. Main obligations of convicted persons

1. Convicted persons shall be obliged to:

1) perform requirements established by this Code, other regulatory legal acts, as well as court verdicts;

2) comply with the internal regulation of institutions and bodies executing the punishment ;

3) perform legal requirements of the servants of institutions or bodies executing the punishments, as well as persons being authorized to carry out control and supervision of behavior of convicted persons;

4) attend on call of administration of institutions or bodies executing the punishments and give explanations on the issues of executing the punishment and other measures of criminal effect;

5) not to leave beyond the territory of the Republic of Kazakhstan until full service of basic sentence, expiration of probation control term, expiration of the term of deferral of executing the punishment;

6) treat politely with staff, other convicted persons, as well as persons visiting institutions and bodies executing the punishments;

7) be in a good faith in respect of labour and education;

8) pass mandatory and preventive medical inspections for the purpose of well-timed detection of infectious diseases, as well as certification for detecting the facts of consumption of psychoactive substance and intoxication, receipt of bodily damages in cases provided by the Law.

9) undergo genomic registration in accordance with the legislation of the Republic of Kazakhstan.

2. Non-performance of obligations imposed on them shall entail responsibility established by the Law.

Footnote. Article 11 as amended by the Law of the Republic of Kazakhstan dated 30.12.2016 № 41-VI (shall be enforced from 01.01.2021).

Article 12. Ensuring of personal security

1. Upon occurrence of a threat to life, health or dignity of convicted person from the side of convicted persons and other persons, he (she) shall have the right to apply to any servant of the institution or body executing the punishment in written or verbally requesting elimination of the threat.

Servant of the institution or body executing the punishment shall be obliged to take immediate measures on elimination of threat, as well as by transferring and accompaniment of a convicted person to the safe place.

Upon establishment of occurrence of a threat to life, health or dignity of convicted person by administration of the institution or body executing punishment, they shall take immediate measures on its elimination, as well as by transferring a convicted person to the safe place, independently from his (her) agreement.

2. In case of establishment of occurrence of a threat to two and more convicted persons, administration of the institution or body executing punishment shall take immediate measures on transferring a source of threat to the safe place independently from his (her) agreement.

3. The transfer of the convicted person to a safe place shall be carried out by order of the head of the institution or body executing the sentence, for a period of up to thirty days. A copy of the resolution on the transfer of the convicted person to a safe place shall be sent to the prosecutor no later than the next working day.

In case of absence of a head, the decision on transferring a convicted person to the safe place shall be taken by associate director of duty of the institution or body executing the punishment up to his (her) arrival, but no more than for twenty four hours.

4. Prolongation of stay of convicted person in a safe place shall be carried out under regulation of a head of the institution or body executing the punishment coordinated with a prosecutor for the term up to thirty days.

5. Upon preservation of a threat mentioned in parts one and two of this Article, administration of the institution or body executing the punishment shall be obliged to take measures on sending a convicted person to other institution or body executing the punishment for the further service of his (her) sentence.

6. Convicted person transferred to the safe place shall serve a sentence in conditions of maintenance determined for him (her) before his (her) transfer to the safe place.

7. Head of institution or body executing the punishment shall be obliged to render assistance to bodies taking decision on applying safety measures and carrying out them in respect of convicted person being a participant of criminal proceeding.

8. As a safe place in institutions, disciplinary isolation cells, temporary isolation rooms, and solitary confinement cells can be used in places of arrest.

Footnote. Article 12 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

Article 13. Ensuring of a right of convicted persons to liberty of conscience and confession

1. Convicted persons shall be guaranteed by the right to liberty of conscience and confession.

2. Religious worship shall be voluntary.

3. Upon religious worship, the internal regulations of the institution or body executing the punishment shall be complied. Actions linked with inducement of convicted persons to refuse from execution of their obligations provided by this Code and other breaches of the legislation of the Republic of Kazakhstan shall not be allowed.

4. Upon request of convicted persons or their relatives in case of ritual necessity, the seculars of religious associations registered in the manner established by the legislation of the Republic of Kazakhstan shall be invited.

5. Administration of institution or body executing the punishment shall create conditions for religious worship, as well as ensure personal security of seculars.

6. Construction of cultic buildings (structures) in the territory of institutions and bodies executing the punishment shall be prohibited.

Article 14. Applications of convicted persons

1. The appeals of convicts to arrest, deprivation of liberty addressed to higher management bodies of institutions or bodies performing punishments, court, prosecution authorities, other state bodies, public associations, as well as international organizations for protection of human rights and freedoms, are sent through the administration of institutions or authorities executing punishments. Convicts can submit applications addressed to the court, prosecutor's office and other state bodies in the form of an electronic document. Administrations of institutions shall ensure the submission of such appeals in places of direct residence of convicts to imprisonment, with the exception of institutions with cell conditions of detention, where the administration of such appeals is provided in places accessible to convicts in the manner established by the internal regulations of institutions. Those sentenced to other types of punishments and measures of criminal law shall send appeals on their own.

2. In institutions and bodies executing punishment, the operation of special mailboxes shall be ensured for the submission by convicts of appeals to the illegal actions of their officials. With a frequency of once a week, applications submitted to the mailboxes shall be

withdrawn by the prosecutor with the participation of representatives of the administration of the institution or the body executing the sentence, about which an act is drawn up. Special mailboxes shall be installed on the territory and in the premises of institutions and bodies executing punishment, in places accessible to convicts.

3. The appeals of convicts to arrest, deprivation of liberty addressed to state bodies exercising control and supervision of the activities of institutions and bodies performing punishments, as well as the Commissioner for Human Rights in the Republic of Kazakhstan, are not subject to control and are sent to the addressee no later than one day.

4. Correspondence of the person convicted for deprivation of liberty or arrest with a lawyer is not subject to control.

5. Convicts to arrest, deprivation of freedom may direct appeals about the use of torture and other cruel, inhuman treatment or punishment, humiliating the dignity, through participants in the national preventive mechanism.

6. Application in the name of convicted person may not be represented by anyone without his (her) agreement.

7. Application of convicted persons about decisions or actions of administration of the institutions and bodies executing the punishments shall not suspend their execution except for the cases provided by the Law.

8. Convicted person that made a complaint shall be notified about decision taken on the complaint. Refusal in satisfying the complaint shall be substantiated.

9. Application of complaint to the damage of convicted person that filed the complaint shall not be allowed.

Footnote. Article 14 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure); dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication).

Chapter 4. COMPETENCE OF STATE BODIES IN THE SCOPE OF EXECUTION OF PUNISHMENTS AND OTHER MEASURES OF CRIMINAL EFFECT

Article 15. Competence of the Government of the Republic of Kazakhstan

1. Government of the Republic of Kazakhstan shall approve:

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

2) rules of recording, keeping, assessment and following use of property being converted (subject to conversation) into the ownership of the state on separate grounds;

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

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

5) excluded by the Law of the Republic of Kazakhstan dated 24.11. 2021 № 75-VII (shall be enforced ten calendar days after the day of its first official publication);

6) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced from 01.01.2015);

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

8) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced from 01.01.2015);

9) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced from 01.01.2015).

2. Government of the Republic of Kazakhstan shall carry out other functions imposed on it by the Constitution, this Code, Laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

Footnote. Article 15 as amended by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced from 01.01.2015); dated 24.11. 2021 № 75-VII (shall be enforced ten calendar days after the day of its first official publication); dated 30.12.2021 № 95-VII (shall be enforced sixty calendar days after the day of its first official publication); dated 19.04.2023 № 223-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 16. Competence of the authorized body in the scope of penal execution activity

1. Authorized body in the scope of penal execution activity shall approve:

1) the rules of visiting the institutions of correctional system;

1-1) in agreement with the authorized body in the field of social protection of the population, the rules for providing social and legal assistance to persons in respect of whom probation is applied;

1-2) list of electronic tracking devices used by the probation service;

1-3) list of engineering and technical means of supervision, control and protection of institutions of the penal system;

2) the rules of organizing the activity on carrying out the control and supervision of behavior of persons detained in institutions of the correctional system and performing of examinations and searches;

3) the rules of organizing the activity of probation service;

4) the rules of directing the convicted persons to the institutions of correctional system for serving the sentence;

5) the rules of transferring persons convicted to deprivation of freedom during serving the sentence;

6) the rules of using engineered technical means of supervision, control and protection of the institutions of correctional system;

7) the rules of imposing the regime of special conditions in the institutions of correctional system;

8) the rules of organizing receipt of basic, main secondary, general secondary, technical and professional education of persons convicted to deprivation of freedom – in concurrence with the authorized body in the field of education;

9) the rules of conduct of educational work with persons convicted to deprivation of freedom;

10) instruction on creation of conditions for religious worship by persons convicted to deprivation of freedom;

11) excluded by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons, contained in institutions of the criminal-executive (penitentiary) system).

12) the rules for organizing sanitary and epidemiological supervision in institutions of the penal system - in agreement with the authorized body in the field of healthcare;

Footnote. Subparagraph 12) as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system).

13) instruction on carrying out the protection of bodies and institutions of correctional system intended for service of sentence of convicted women, minor children and institutions of the regime of complete safety;

14) the rules of organizing the activity and internal regulation of special institutions carrying out the execution of punishment in the form of arrest;

15) provision on guardian council under the institutions of correctional system;

16) the rules of internal regulation of the institutions of correctional system;

17) standard type provision on advisory body under local executive bodies on assistance of the activity of institutions and bodies executive the criminal punishments and other measures of criminal effect, as well as organization of social and other assistance to persons that served criminal sentences.

18) rules for provision of technical auxiliary (compensatory) means and special means of transportation to convicts with disabilities serving sentences in institutions and in custody – in coordination with the authorized body in the field of social protection of the population;

19) rules for organizing theological rehabilitation work with convicted persons in institutions of the penal system;

20) rules for providing free travel, as well as food or money on the route of persons released from serving a sentence of arrest or imprisonment to their chosen place of residence or work.

2. Authorized body in the scope of penal execution activity shall carry out other functions provided by this Code, other Laws, acts of the President of the Republic of Kazakhstan and Government of the Republic of Kazakhstan.

Footnote. Article 16 as amended by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced from 01.01.2015); dated 03.12.2015 № 433-V (shall be enforced dated 01.01.2016); № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure); dated 24.11. 2021 № 75-VII (shall be enforced upon the expiration of ten calendar days after the day of its first official publication); dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in the institutions of criminal-executive (penitentiary) system); dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication); dated 19.04.2023 № 223-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 17. Competence of bodies of correctional system and institutions

1. Authorized body of correctional system shall:

1) carry out distribution of persons convicted to deprivation of freedom to the institutions in accordance with the verdict or regulation of court;

2) direct convicted persons to institutions for service of sentences;

3) settle institutions on medical preventive institutions;

4) carry out other functions provided by this Code, other Laws, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

2. Territorial body of correctional system shall:

1) carry out distribution of persons convicted to deprivation of freedom to the institutions settled by the authorized body of correctional system on territorial body in accordance with the verdict or regulation of court;

2) direct convicted persons to the institutions settled by the authorized body of correctional system on territorial body;

3) consider and provide materials for convicted persons in court being recommended to release from serving the sentence due to disease;

4) monitors sanitary and epidemiological measures in subordinate institutions;

Footnote. Subparagraph 4) as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

5) create commissions and approve the rules of their work;

6) carry out other functions provided by this Code, other Laws, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

3. Institution shall create commissions upon carrying out the activity on execution of punishments and approve the rules of their work, as well as realize works and services that do not relate to main activity.

The list of works and services that do not relate to main activity of institutions shall include the works and services provided by them on ensuring of rights and legal interests of convicted persons to:

1) additional purchase of food, essentials, writing tools, literature, periodicals;

Footnote. Subparagraph 1) as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

2) long appointments;

3) additional services determined by this Code and the internal regulations of institutions.

Footnote. Subparagraph 3) as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

4. Excluded by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons, contained in institutions of the criminal-executive (penitentiary) system;).

5. Commissions of institutions shall:

1) excluded by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons, contained in institutions of the criminal-executive (penitentiary) system;).

2) consider an issue on sending the materials in court for establishment of administrative supervision in respect of convicted persons;

3) consider an issue on preventive recording of a psychologist of convicted persons and removal from it;

4) consider an issue on transfer of convicted persons in different conditions of serving a sentence.

6. Commissions of territorial body and institution shall carry out other functions established by the legislation of the Republic of Kazakhstan.

Footnote. Article 17, as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023

- in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

Article 18. Competence of local executive bodies

1. Local executive bodies of oblast, city of republican significance, the capital, district, city of oblast significance of the Republic of Kazakhstan shall:

1) form advisory bodies for assistance to the activity of institutes and bodies executive the criminal punishments and other measures of criminal effect, as well as organizations of social and other assistance to persons that served the criminal sentences;

2) establish quotas of work positions for persons being recorded in probation service, as well as persons released from the institutions;

3) organize a process related to the provision of social and legal assistance to persons in respect of whom the probation is applied, in accordance with the legislation of the Republic of Kazakhstan;

4) ensure the provision of special social services to persons in respect of whom the probation is applied, recognized as persons in difficult situations, in accordance with the legislation of the Republic of Kazakhstan on special social services;

5) ensure measures for promotion of employment to persons released from the institutions , as well as being recorded in probation service;

5-1) promote employment of the convicted serving sentence in institutions of a correctional system according to the legislation of the Republic of Kazakhstan;

5-2) organize medical care to persons held in institutions;

5-3) organize medical organizations (somatic, psychiatric and anti-Tuberculosis hospitals (departments), organizations providing outpatient assistance) to provide medical care to the convicts at the criminal-executive system;

6) ensure directing of disabled minor children under agreement of parents or other legal representatives being recorded in probation service to psychological, medical and educational consultations;

7) use other powers in the scope of rendering of social assistance and other assistance to persons released from the institutions, as well as being recorded in probation service in accordance with the legislation of the Republic of Kazakhstan;

8) carry out other powers imposed on local executive bodies by the legislation of the Republic of Kazakhstan in behalf of local state management.

2. Akim of the district in the city, town of district significance, village, settlement, rural districts ensures the provision of social and legal assistance to persons in respect of whom the probation is applied, in accordance with the legislation of the Republic of Kazakhstan.

Footnote. Article 18 with the change made by the Law of the Republic of Kazakhstan dated 03.07.2017 № 84-VI (shall be enforced after ten calendar days after day of its first official publication); dated 30.12.2021 № 95-VII (the procedure for enactment, see Article 2).

Chapter 5. CARRYING OUT OF PROBATION CONTROL

Article 19. Probation control

1. Probation control shall be carried out in respect of persons:
 - 1) being convicted to punishment in the form of restriction of freedom;
 - 2) convicted conditionally;
 - 3) released on probation-on parole from serving a sentence in the form of deprivation of freedom.
2. Duration of probation control shall be determined by the verdict or regulation of court.

Article 20. Special aspects of carrying out probation control in respect of minor children

1. The probation service exercises probational control towards the minors:
 - 1) convicted to punishment in the form of restriction of freedom;
 - 2) convicted conditionally.The police exercises probational control towards the minors:
 - 1) convicted on parole from serving sentence in the form of imprisonment;
 - 2) in respect of which the court appointed a forced measure of educational influence.
2. The registration of a minor at the probation service or police is carried out in the presence of parents or other legal representatives, and, if necessary, a teacher or psychologist.
3. In respect of minor children, together with measures mentioned in part two of this Article, the probation service shall:
 - 1) call parents or other legal representatives immediately for interrogation and establishment of the reasons and conditions promoting evasion of service of sentences upon detention of a minor child being in search;
 - 2) conduct housing survey of minor children on a quarterly basis together with representatives of the body of trusteeship and guardianship with the drawing up of the act.

Footnote. Article 20 with the changes made by the Law of the Republic of Kazakhstan dated 30.12.2016 № 39-VI (shall be enforced after ten calendar days after day of its first official publication); dated 30.12.2021 № 95-VII (shall be enforced sixty calendar days after the day of its first official publication); dated 30.12.2021 № 95-VII (shall be enforced sixty calendar days after the day of its first official publication).

Article 21. Conditions for probation control

1. The person in respect of whom the probation control is established is obliged:
 - 1) to appear within ten days from the date of the enforcement of the sentence or enforcement of the court decision, and persons released from institutions - within five working days from the date of release to the authorized state body, who will monitor his behavior, for registration;
 - 2) to comply with the conditions and procedure for serving the sentence and other measures established by this Code;

3) to come to an authorized state body that monitors his behavior, to report on his behavior and participation in a preventive conversation;

4) in writing, to inform the authorized state body that controls its behavior, on changing permanent residence, place of work or study.

2. In order to achieve the goals of punishment and other measures of criminal law, the authorized state body that monitors the behavior of the convicted person interacts with state bodies in accordance with the legislation of the Republic of Kazakhstan.

Footnote. Article 21 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95 -VII (shall be enforced sixty calendar days after the day of its first official publication).

Article 22. Powers of probation service

1. Probation service shall:

1) keep record of persons in respect of whom the probation control is established;

2) explain procedure for fulfilling the obligations imposed by court and bringing to responsibility for their non-fulfillment;

3) explain procedure and conditions for carrying out and termination of probation control and bringing to responsibility for violation of the procedure for probation control;

4) explains the procedure for obtaining social and legal assistance;

5) establishes the place of residence of the person, the state of his health, the level of education and employment;

6) carry out other functions provided by the legislation of the Republic of Kazakhstan.

Footnote. Article 22 with the changes made by the Law of the Republic of Kazakhstan dated 30.12.2016 № 39-VI (shall be enforced after ten calendar days after day of its first official publication); dated 30.12.2021 № 95-VII (shall be enforced sixty calendar days after the day of its first official publication).

Article 23. Consequences of non -compliance with conditions of probation control

In case of non-compliance with conditions of probation control, the Probation Service sends materials to the court in accordance with part two of Article 68, part two of Article 176 of this Code.

Footnote. Article 23 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95 -VII (shall be enforced sixty calendar days after the day of its first official publication).

CHAPTER 2. INSTITUTIONS AND BODIES EXECUTING THE PUNISHMENT AND OTHER MEASURES OF CRIMINAL EFFECT. CONTROL AND SUPERVISION OF THEIR ACTIVITY

Chapter 6. INSTITUTIONS AND BODIES EXECUTING THE

**PUNISHMENTS AND OTHER MEASURES OF CRIMINAL EFFECT.
APPLYING COMPULSORY MEASURES OF MEDICAL NATURE TO
CONVICTED PERSONS**

Article 24. Institutions and bodies executing punishments and other measures of criminal effect

1. Punishments in the form of penalty, as well as confiscation of property shall be executed by bodies of justice at the location of property and place of work of convicted person.

2. Execution of punishment in the form of deprivation of the right to hold particular position or be engaged in particular activity shall be carried out by the probation service at the place of residence of convicted person or institution upon execution of the punishment in the form of deprivation of freedom.

Court verdict on deprivation of right to hold particular positions or be engaged in particular activity shall be executed by the administration of organization at the place of work of convicted person, as well as bodies being legally qualified in accordance with the legislation of the Republic of Kazakhstan to revoke permission to engage in particular activity

3. Execution of court verdict on life deprivation of right to engage particular positions or be engaged in particular activity shall be controlled by authorized state bodies.

4. Punishment in the form of arrest shall be executed by internal affairs bodies and bodies of military police.

5. Punishment on deportation beyond the boundaries of the Republic of Kazakhstan of foreign person or stateless person shall be executed by national security bodies and internal affairs bodies of the Republic of Kazakhstan.

6. Court verdict in a part of deprivation of special, military or honorary title, class rank, diplomatic rank, qualification class shall be executed by a civil servant that awarded the rank, class rank, diplomatic rank qualification class. Withdrawal of state awards together with documents with them shall be performed by probation service at the place of their location.

7. Punishments in the form of corrective labour, as well as involvement to public works shall be executed by probation service at the place of residence of convicted person.

8. Excluded by the Law of the Republic of Kazakhstan dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication).

9. Punishment in the form of deprivation of freedom shall be executed by the institutions, as well as detention facilities in respect of convicted persons left or directed for performance of works on economic service.

10. Control of behavior of persons released on probation-on parole from serving a sentence shall be carried out by internal affairs bodies at the place of their residence.

11. Persons convicted conditionally and convicted to restriction of freedom shall be under probation control of probation service.

12. Pregnant women and women having infant children, men singly nurturing infant children for whom the execution of punishment is deferred shall be under the control of probation service.

12-1. Persons released from punishment or who have been suspended from serving their sentence due to illness are under the control of the institution of the penal enforcement system from which he was released or to which he was assigned.

13. Minor children convicted conditionally and convicted to restriction of freedom shall be under probation control of probation service.

14. Interaction of probation services and subdivisions of police on control of behavior of persons being recorded in probation services shall be carried out in the manner determined by the authorized body in the scope of penal execution activity.

Footnote. Article 24 as amended by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced from 01.01.2015); dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication); dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication)

Article 25. Notification on place of serving a sentence

Administration of the institution or body executing the punishment shall be obliged to direct written notification within two business days on arrival of convicted person to the place of serving a sentence to his (her) husband (wife), one of relatives or legal representative at the choice of the convicted person.

Notification of the arrival of a foreigner within the specified period shall be sent to the embassy, consulate or other representation of the state of which he/she is a citizen, through the Ministry of Foreign Affairs of the Republic of Kazakhstan.

Footnote. Article 25 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

Article 26. Applying of compulsory measures of medical nature to convicted persons

1. Persons sentenced to punishments not related to deprivation of liberty, with mental, behavioral disorders (diseases), including those associated with the use of psychoactive substances that do not exclude sanity, are subject to compulsory medical measures in accordance with the Criminal Code of the Republic of Kazakhstan.

2. To persons convicted of imprisonment recognized as those who need the treatment of mental, behavioral disorders (diseases) related to the use of psychoactive substances, the institutions by the court sentence apply compulsory medical measures, the execution of which is assigned to medical organizations located in institutions.

Footnote. Part two as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained

in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

3. If during serving the sentence it is established that convicted person suffers from diseases mentioned in part one of this Article, administration of the institution shall direct a submission on applying compulsory measures of medical nature to him (her) in court.

4. To persons convicted of imprisonment, patients with tuberculosis or an infectious disease who has not undergone a full course of treatment, the institution by decision of the medical commission applies compulsory treatment.

Footnote. Part four as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

5. Concerning the persons convicted to imprisonment for crime commission against sexual integrity of the minors, the administration of establishment not later than six months before the expiration of serving sentence shall send materials to court for purpose of forensic psychiatric expert examination for the solution of a question of existence (absence) at them mental deviations and tendencies to sexual violence. Provisions of the real part do not extend to the convicted to whom coercive measures of medical character in connection with the mental disorder revealed at them which is not excluding sanity are by a court decision applied

By results of forensic-psychiatric expert examination the administration of establishment shall send submission to court for the solution of a question of appointment, extension, change or the termination of coercive measures of medical character.

The institution administration within three working days from the date of obtaining the resolution of court shall send him to the organization of health care for the chosen residence of the medical character condemned for execution of coercive measures.

The notice on release from institutions of the person convicted to imprisonment for commission of crime against sexual integrity of the minors concerning which the judgment has established a coercive measure of medical character in five working days prior to release shall be sent to the organization of health care and law-enforcement body for the residence.

Footnote. Article 26 with the change made by the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced dated 01.01.2018); dated 07.07.2020 № 361-VI (shall be enforced ten calendar days after the day of its first official publication); dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in the institutions of criminal-executive (penitentiary) system;).

Chapter 7. CONTROL OF ACTIVITY OF INSTITUTIONS AND BODIES EXECUTING THE PUNISHMENTS

Article 27. Judicial control

1. Court shall control the execution of punishments upon resolution of issues on conditional early release from serving the sentence, upon substitution of unserved part of punishment by lenient punishment, upon release from punishment due to diseases of convicted person, deferral of serving the sentence of pregnant women and women having infant children, men singly nurturing infant children, as well as change of the type of the institution.

2. Court considers complaints of convicted and other persons to actions or omission of administration of the institutions and bodies executing the punishment.

3. Institutions and bodies executing punishments, within two working days, send a notification to the court that has passed the sentence, of the beginning and place of serving by convicts of public works, correctional labor, restrictions on freedom, arrest, imprisonment and on the execution of punishments in the form of deprivation of the right to occupy certain positions or engage in certain activities, deprivation of a special, military or honorary title, class rank, diplomatic rank, qualification class and state awards, confiscation of property.

Footnote. Article 27 as amended by the Law of the Republic of Kazakhstan dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication).

Article 28. Departmental control

Departmental control of activity of the institutions and bodies executing the punishments shall be carried out from the side of superior managing bodies and their civil servants. Procedure for carrying out departmental control shall be determined by the legislation of the Republic of Kazakhstan.

Article 29. State control and supervision

The state control and supervision of activity of the institutions and bodies executing punishments shall be carried out according to the Enterprise Code of the Republic of Kazakhstan.

Footnote. Article 29 with the change made by the Law of the Republic of Kazakhstan dated 29.10.2015 № 376-V (shall be enforced dated 01.01.2016).

Article 30. Supervision of respecting the rule of law of execution and serving of punishments and other measures of criminal influence

The highest supervision of respecting the rule of law of execution and serving of punishments and other measures of criminal influence shall be carried out by bodies of prosecutor's office of the Republic of Kazakhstan.

Footnote. Article 30 in edition of the Law Of the Republic of Kazakhstan dated 11.07.2017 № 91-VI (shall be enforced after ten calendar days after day of his first official publication).

Article 31. Public control

1. Public control in the form of activity of public supervisory committees and national preventive mechanism shall be carried out in accordance with chapters 8 and 9 of this Code.

2. Principles of public control are:

- 1) compliance with constitutional rights, freedoms and legal interests of human and citizen;
- 2) legality;
- 3) objectivity;
- 4) voluntariness of participation of citizens;
- 5) publicity and transparency of measures and results in recognition of conditions of executing the punishment;
- 6) periodicity and operational efficiency;
- 7) obligation of written documenting the results;
- 8) obligation of responsivity of the body of state power to represent written conclusion following the results of public control;
- 9) prohibition of pursuing a citizen due to his (her) participation in carrying out public control.

3. Tasks of public control are:

- 1) assistance in respect of public interests upon development of regulatory legal acts and law enforcement practice of executing and serving the sentences and other measures of criminal effect;
- 2) increase of transparency level of activity of the institutions and bodies executing the punishment for community;
- 3) increase of level of protecting the rights, freedoms and legal interests of convicted persons;
- 4) taking measures on elimination of the reasons and conditions promoting the violation of rights, freedoms and legal interests of convicted persons;
- 5) participation in assessment of effectiveness of activity of the institutions and bodies executing the punishment, as well as their superior bodies.

Article 32. Visit of institutions

1. The following persons shall have the right to visit the institutions without special permission:

- 1) the President of the Republic of Kazakhstan, the Prime Minister of the Republic of Kazakhstan, deputies of the Parliament of the Republic of Kazakhstan, as well as Akims of regions, cities of republican significance and the capital within the relevant administrative and territorial units;

- 2) General Prosecutor of the Republic of Kazakhstan and prosecutors subordinated to him (her);
- 3) judges in the course of proceeding on particular cases;
- 4) servants of superior bodies of correctional system;
- 5) the Commissioner for Human Rights in the Republic of Kazakhstan and his representative in the region, the city of republican significance and the capital;
- 6) participants of the national preventive mechanism due to carrying out the powers by them provided by this Code;
- 7) Empowered of Children Rights.

2. Members of public supervisory committees shall visit the institutions due to carrying out of powers by them provided by this Code in the manner established by the legislation of the Republic of Kazakhstan.

3. Representatives of mass media, seculars of religious associations and other persons shall have the right to visit the institutions only under special permission of administration of these institutions or their superior bodies.

4. Making of cine filming, photo survey and camera recording ensuring safety and protection of suspected, accused and convicted persons shall be carried out with the agreement of administration of the institution. This requirement does not apply to the Commissioner for Human Rights in the Republic of Kazakhstan.

5. Making of cine filming, photo survey and camera recording of convicted persons, their interviewing, as well as with the use of the means of audio and video technology shall be carried out with their agreement.

6. Rules of visiting the institutions shall be established by the authorized body in the scope of penal execution activity.

Footnote. Article 32 with the change made by the Law of the Republic of Kazakhstan dated 09.04.2016 № 501-V (shall be enforced after ten calendar days after day of its first official publication); № 210-VI dated 28.12.2018 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 05.11.2022 № 157-VII (shall be enforced ten calendar days after the date of its first official publication); dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication).

Chapter 8. PUBLIC SUPERVISORY COMMITTEE

Article 33. Grounds of activity of public supervisory committee

1. Public supervisory committee of oblast, city of republican significance, the capital shall be formed for conduct of public monitoring of ensuring the rights, freedoms and legal interests of convicted persons detained in the institutions and bodies executing the punishment in a part of conditions of their detention, medical and sanitary ensuring, organization of labour, education and leisure time.

2. Public supervisory committee is not a legal entity.

Article 34. Procedure for creation of public supervisory committee

1. Public supervisory committee shall be created at the initiative of citizens or public associations.

Public associations shall have the right to represent one candidate to each public supervisory committee of oblast, city of republican significance, the capital.

2. In the territory of oblast, city of republican significance, the capital, the one public supervisory committee carrying out its activity within administrative territorial entity shall be created.

3. Public supervisory committee shall be created consisting from three up to nine people for the term of two calendar years.

During the work of public supervisory committee, its members may be substituted that shall be stated in the protocol of a session.

4. In case of non-attendance of the institutions and bodies executing the punishments by public supervisory committee within six months, its activity shall be considered as terminated

5. Public supervisory committee shall be headed by a chairman elected from its members by majority votes carrying out the administration of its activity.

6. Beginning of activity of public supervisory committee is provision of a protocol of its first session at which the personal composition of public supervisory committee is approved and its chairman is elected to superior bodies of the institutions and bodies executing the punishment.

7. In case of termination of powers of a member of public supervisory committee in advance, its chairman shall announce a competition for a vacant position within ten days specifying the terms and procedure for submission of the relevant documents.

Article 35. Requirements to members of public supervisory committee

1. Member of public supervisory committee may be a citizen of the Republic of Kazakhstan attained twenty one years.

2. Members of public supervisory committee may not be the following persons:

- 1) having outstanding or unexpunged conviction in the manner established by the Law;
- 2) suspected or accused in commission of criminal infractions;
- 3) recognized incapable or partially capable by court;
- 4) judges, attorneys for defence, state servants and military servants, as well as employees of law enforcement and special state bodies;
- 5) being recorded at a psychiatrist and (or) narcologist.

3. Also, members of public supervisory committee may not be persons released from criminal responsibility on the basis of paragraphs 3), 4), 9) – 12) of part one of Article 35 and Article 36 of the Criminal Procedure Code of the Republic of Kazakhstan for commission of

intended criminal infraction, dismissed from state or military service, from law enforcement and special state bodies, courts or expelled from bar association on negative motives, deprived of the license for engagement in advocacy.

4. One and the same person may not be a member of several public supervisory committees at the same time.

Footnote. Article 35 as amended by the Law of the Republic of Kazakhstan dated 07.11.2014 № 248-V (shall be enforced from 01.01.2015).

Article 36. Rights and obligations of a member of public supervisory committee

1. Member of public supervisory committee shall have the right to:

1) visit the institutions and bodies executing the punishments in the manner established by this Code in a composition of formed group;

2) meet with civil servants of the institutions and bodies executing the punishments, receive information from them on the issues related to activity of public supervisory committee;

3) conduct conversations with convicted persons detained in the institutions and bodies executing the punishments without witnesses, in person or when necessary through an interpreter, receive applications on the issues of violation of their rights, freedom and legal interests in recognition of provisions of part three of Article 38 of this Code;

4) with the written agreement of convicted person, to familiarize with materials linked with his (her) application;

5) apply with questions linked with ensuring of rights, freedoms and legal interests of convicted persons detained in the institutions and bodies executing the punishments to their administration, superior bodies, prosecution bodies;

6) participate in judicial proceedings upon considering the questions related to the scope of activity of public supervisory committees;

7) inform administration of the institution or body executing the punishment on results of its activity in written form. In case of non-elimination of detected deficiencies by the institution or body executing the punishment, he (she) shall have the right to report about them to their superior bodies and (or) prosecution bodies;

8) participate in inspections of activity of the institutions and bodies executing the punishment carried out by them in coordination with prosecution bodies.

2. Upon performance of own powers, members of public supervisory committees shall be obliged to comply with requirements of the regulatory legal acts ensuring activity of the institutions and bodies executing the punishment, to abide legal requirements of their administration.

3. In existence of circumstances that raise doubts in impartiality of a member of public supervisory committee included in the group on visiting the institution or body executing the punishment, he (she) shall be obliged to refuse from participation in it.

Article 37. Termination of powers of a member of public supervisory committee

1. Powers of a member of public supervisory committee shall be terminated upon expiry of the term of its functioning, as well as upon:

- 1) written application on own resignation;
- 2) his (her) death or entering of court decision into legal force on declaring him (her) deceased;
- 3) liquidation of public association that nominated his (her) candidate;
- 4) revocation by public association that nominated his (her) candidate;
- 5) violation of provisions of this Code;
- 6) departure for permanent residence beyond the boundaries of the Republic of Kazakhstan;
- 7) loss of citizenship of the Republic of Kazakhstan;
- 8) entering of condemnatory court verdict into legal force;
- 9) non-participation in work of public supervisory committee within three months;
- 10) occurrence of other cases provided by the Law.

2. Chairman of committee shall inform superior territorial body of the institutions and bodies executing the punishment within three business days on termination of powers of a member of public supervisory committee.

Article 38. Forms of activity of public supervisory committee

1. The forms of activity of public supervisory committee are:
 - 1) visit of the institutions and bodies executing the punishment;
 - 2) meetings with convicted persons detained in the institutions and bodies executing the punishment on complaints to conditions of their detention;
 - 3) direction of applications to state bodies and local self-government bodies on the issues included to their competence;
 - 4) preparation and direction of complaints and statements of claim in court, oral pleadings in court by attorney for protection of rights, freedoms and legal interests of convicted persons detained in the institutions and bodies executing the punishment;
 - 5) questionnaire, inquiries and interviewing of convicted persons detained in the institutions and bodies executing the punishment;
 - 6) realization of projects and programs in coordination with the authorized body of correctional system;
 - 7) informing community on results of public monitoring of ensuring the rights, freedoms and legal interests of convicted persons detained in the institutions and bodies executing the punishment in a part of conditions of their detention, medical and sanitary ensuring, organization of labour, education and leisure time.

2. Visits of the institutions and bodies executing the punishment by public supervisory committee shall be carried out by the groups composed of no less than two members.

Public supervisory committee shall be obliged to notify a head of the institution or body executing the punishment no less than one day on a planned visit.

3. Safety ensuring of members of public supervisory committee upon visiting the institution and body executing the punishment shall be imposed on their administration.

Refusal of a member of public supervisory committee from ensuring of his (her) safety during conversation in private with convicted person shall be drawn up in written.

4. Members of public supervisory committee shall not have the right to divulge details being known to him (her) of private life of a person in the course of visits without his (her) agreement.

Violation of mentioned requirement shall entail responsibility established by the Law.

5. Interference of members of public supervisory commission in activity of institutions and bodies executing the punishment shall not be allowed.

6. For the period of imposing a regime of special conditions in the institution or body executing the punishment, the powers of public supervisory committee on their visit shall be suspended.

Chapter 9. NATIONAL PREVENTIVE MECHANISM

Footnote. In Chapter 9, the words "Commissioner for Human Rights", "Commissioner for Human Rights", "of Commissioner for Human Rights", "by Commissioner for Human Rights", "to Commissioner for Human Rights" are replaced, respectively, by the words "Commissioner for Human Rights in the Republic of Kazakhstan", "Commissioner for Human Rights in the Republic of Kazakhstan", "of Commissioner for Human Rights in the Republic of Kazakhstan", "by Commissioner for Human Rights in the Republic of Kazakhstan", "to Commissioner for Human Rights in the Republic of Kazakhstan" in accordance with the Law of the Republic of Kazakhstan dated 05.11.2022 № 157-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 39. National preventive mechanism

1. National preventive mechanism shall have an effect in the form of prevention system of tortures and other cruel, inhuman types of treatment and punishment or those degrading dignity, functioning in virtue of activity of participants of the national preventive mechanism.

2. Within the activity, participants of the national preventive mechanism shall visit the institutions and bodies executing the punishments.

3. Participants of the national preventive mechanism are the Commissioner for Human Rights in the Republic of Kazakhstan, as well as members of public supervisory committees and public associations elected by the Coordination council carrying out activity on protection of rights, freedoms and legal interests of citizens, lawyers, social employees, doctors.

4. Commissioner for Human Rights in the Republic of Kazakhstan shall coordinate the activity of participants of the national preventive mechanism, take measures in accordance with the legislation of the Republic of Kazakhstan for ensuring of necessary potential and professional knowledge of participants of the national preventive mechanism.

5. Compensation for expenses of participants of the national preventive mechanism on preventive visits shall be carried out from budget funds in the manner determined by the Government of the Republic of Kazakhstan.

Article 40. Coordination council

1. For the purpose of ensuring effective coordination of activity of the national preventive mechanism, the Coordination council shall be created under the Commissioner for human rights in the Republic of Kazakhstan.

Members of the Coordination council with the exception of the Commissioner for human rights in the Republic of Kazakhstan shall be elected by a committee created by the Commissioner for human rights from among the citizens of the Republic of Kazakhstan.

2. Commissioner for Human Rights in the Republic of Kazakhstan shall approve:

1) provision on Coordination council under the Commissioner for human rights in the Republic of Kazakhstan;

2) procedure for selecting participants of the national preventive mechanism;

3) procedure for formation of groups from among the participants of the national preventive mechanism for preventive visits;

4) methodical recommendations on preventive visits;

5) procedure for preparation of annual consolidated report on results of preventive visits.

3. Coordination council shall interact with subcommittee on prevention of tortures and other cruel, inhuman types of treatment and punishment or those degrading dignity of the United Nations Committee Against Torture.

Article 41. Requirements to participants of the national preventive mechanism

1. Participants of the national preventive mechanism may not be the following persons:

1) having outstanding or unexpunged conviction in the manner established by the Law;

2) suspected or accused in commission of criminal infractions;

3) recognized incapable or partially capable by court;

4) judges, attorneys for defence, state servants and military servants, as well as employees of law enforcement and special state bodies;

5) being recorded at a psychiatrist and (or) narcologist.

2. Also, participants of the national preventive mechanism may not be persons released from criminal responsibility on the basis of paragraphs 3), 4), 9) – 12) of part one of Article 35 and Article 36 of the Criminal Procedure Code of the Republic of Kazakhstan for commission of intended criminal infraction, dismissed from state or military service, from law enforcement and special state bodies, courts or expelled from bar association on negative motives, deprived of the license for engagement in advocacy.

Footnote. Article 41 as amended by the Law of the Republic of Kazakhstan dated 07.11.2014 № 248-V (shall be enforced from 01.01.2015).

Article 42. Rights of participant of the national preventive mechanism

1. Participant of the national preventive mechanism shall have the right to:

1) receive information on quantity of convicted persons detained in the institutions and bodies executing the punishment being subject to preventive visit, quantity of such institutions and their location;

2) have an access to information concerning treatment with convicted persons detained in the institutions and bodies executing the punishment being subject to preventive visit, as well as conditions of their detention;

3) carry out preventive visits in established manner in a composition of formed groups;

4) conduct conversations with convicted persons detained in the institutions and bodies executing the punishment being subject to preventive visits, and (or) their legal representatives without witnesses, in person or when necessary through an interpreter, as well as with any other person that in opinion of a participant of the national preventive mechanism may provide the relevant information;

5) choose and visit the institutions and bodies executing the punishment being subject to preventive visit without encumbrance;

6) receive reports and complaints on applying tortures and other cruel inhuman types of treatment and punishment or those degrading dignity.

2. Participant of the national preventive mechanism is independent upon carrying out of legal activity.

Article 43. Obligations of participants of the national preventive mechanism

1. Upon performance of own powers, participants of the national preventive mechanism, shall be obliged to comply with the legislation of the Republic of Kazakhstan.

2. Interference of participants of the national preventive mechanism in activity of the institutions and bodies executing the punishment being subject to preventive visit shall not be allowed.

3. In existence of circumstances that raise doubts in impartiality of a participant of the national preventive mechanism included in the group on preventive visit, he (she) shall be obliged to refuse from participation in the preventive visit.

4. Participants of the national preventive mechanism shall be obliged to register accepted reports and complaints on applying the tortures and other cruel, inhuman treatment and punishment or those degrading dignity, determined by the Commissioner for human rights in the Republic of Kazakhstan.

Accepted reports and complaints shall be transferred for consideration of the Commissioner for human rights in the Republic of Kazakhstan in the manner provided by the legislation of the Republic of Kazakhstan.

Information on accepted and transferred reports and complaints shall be included in the report on results of preventive visits.

5. Participants of the national preventive mechanism that violated the provisions of this Code shall bear responsibility established by the Law.

Article 44. Termination of powers of participant of the national preventive mechanism

Powers of participant of the national preventive mechanism shall be terminated upon:

- 1) violation of provisions of this Code;
- 2) written application on resignation;
- 3) his (her) death or entering of court decision into legal force on declaring him (her) as deceased;
- 4) departure for permanent residence beyond the boundaries of the Republic of Kazakhstan;
- 5) loss of citizenship of the Republic of Kazakhstan;
- 6) entering of condemnatory court verdict into legal force;
- 7) occurrence of other cases provided by the Law.

Article 45. Types and periodicity of preventive visits

1. Preventive visits of participants of the national preventive mechanism shall be divided into:

- 1) periodical preventive visits conducted on a regular basis no less than once every four years;
- 2) midterm preventive visits conducted during a period between periodical preventive visits for the purpose of monitoring the realization of recommendations following the results of a previous periodical preventive visit, as well as prevention of pursuing convicted persons with which participants of the national preventive mechanism conducted conversations, from the side of administrations of the institutions and bodies executing the punishment being subject to preventive visit;
- 3) special preventive visits conducted on the basis of received reports on applying tortures and other cruel, inhuman types of treatment and punishment or those degrading dignity.

2. Coordination council shall determine terms and list of the institutions being subject to preventive visits within allocated budget funds.

Article 46. Procedure for preventive visits

1. Preventive visits shall be conducted by groups formed by the Coordination council from among the participants of the national preventive mechanism in accordance with the rules approved by the Government of the Republic of Kazakhstan in coordination with the Commissioner for human rights in the Republic of Kazakhstan.

2. Upon formation of groups for preventive visits, no one from participants of the national preventive mechanism may not be subject to any discrimination based on origin, social, official and property situation, gender, race, nationality, language, confession, convictions, residence place or any other circumstances.

3. Ensuring of safety of participants of the national preventive mechanism shall be imposed on administration of the institutions and bodies executing the punishment being subject to preventive visit. In case of illegal actions of participants of the national preventive

mechanism, a head of administration of the institutions and bodies executing the punishment being subject to preventive visit shall inform the Commissioner for human rights in written in the Republic of Kazakhstan.

4. Following the results of each preventive visit, the written report shall be drawn up in the name of group in the form approved by the Coordination council that shall be signed by all members of the group carried out preventive visit. Member of the group having special opinion shall draw it up in written and enclose to the report.

Article 47. Annual consolidated report of participants of the national preventive mechanism

1. Consolidated council shall prepare annual consolidated report of participants of the national preventive mechanism in recognition of their reports on results of preventive visits.

2. Annual consolidated report of participants of the national preventive mechanism shall also include:

1) recommendations for authorized state bodies on improvement of conditions of treatment with convicted persons detained in the institutions and bodies executing the punishment being subject to preventive visit, and prevention of tortures and other cruel, inhuman types of treatment and punishment or those degrading dignity;

2) suggestions on development of the legislation of the Republic of Kazakhstan.

Annual consolidated report of participants of the national preventive mechanism shall be enclosed by financial report on preventive visits for the previous year.

3. Annual consolidated report of participants of the national preventive mechanism shall be directed for consideration by the authorized state bodies and shall be placed on a web-site of the Commissioner for human rights in the Republic of Kazakhstan within the term no later than one month from the date of approval by the Coordination council.

Article 48. Confidentiality

Participants of the national preventive mechanism shall not have the rights to divulgate details that became known to them about private life of convicted persons without his (her) agreement.

Violation of mentioned requirement shall entail responsibility established by the Law.

Article 49. Interaction of authorized state bodies with participants of the national preventive mechanism

1. State bodies and their civil servants shall render assistance to participants of the national preventive mechanism in carrying out of legal activity by them.

None of state bodies or civil servants shall not have the right to restrict rights, freedoms and legal interests of citizens for noting participants of the national preventive mechanism on the facts of applying the tortures and other cruel, inhuman types of treatment and punishment or those degrading dignity.

Civil servants impeding the legal activity of participants of the national preventive mechanism shall bear responsibility established by the Law.

2. Authorized state bodies shall inform the Commissioner for human rights in the Republic of Kazakhstan in written form on measures taken on the results of considering the received reports within three months from the date of receiving the annual consolidated report of participants of the national preventive mechanism.

3. On the basis of reports of participants of the national preventive mechanism on the results of preventive visits, the Commissioner for Human Rights in the Republic of Kazakhstan shall have the right to apply to authorized state bodies or civil servants with petition on initiation of disciplinary or administrative proceeding or beginning of prejudicial investigation in respect of a civil servant that violated the rights and freedom of a human and citizen.

Footnote. Article 49 as amended by the Law of the Republic of Kazakhstan dated 07.11.2014 № 248-V (shall be enforced from 01.01.2015).

SPECIAL PART

SECTION 3. EXECUTION OF PUNISHMENTS NOT LINKED WITH ISOLATION OF CONVICTED PERSON FROM SOCIETY

Chapter 10. EXECUTION OF PUNISHMENT IN THE FORM OF PENALTY

Article 50. The procedure and conditions for execution of punishment in the form a fine

1. A fine shall be paid by a convicted person within the term established by the sentence. The term for payment of the fine shall be calculated from the date the sentence enters into force and shall not include the time for which the court granted a deferral. If under sentence the convicted person shall be obliged to pay a fine within a period exceeding one month, a fine shall be paid in equal amounts on a monthly basis.

2. A convicted person shall have the right to petition the court on granting a deferral of payment of a fine in the event of deterioration of the property status.

Footnote. Article 50 is in the wording of the Law of the Republic of Kazakhstan № 180-VI dated 12.07.2018 (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 51. Responsibility of a convicted person for violation of the procedure and conditions for execution of punishment in the form a fine

In case when the convicted person did not pay or did not pay a fine in full in the period established by the court, the Agency executing the punishment (Enforcement Agent) shall take measures to enforce the fine. In cases when the convicted person's income or property shall not sufficient to fully recover the fine or the convicted person's concealment of his income or property from enforcement action shall be established, the Agency executing the punishment (Enforcement Agent) shall submit the concept to the court on replacing the fine with another type of punishment in accordance with the Criminal Code Republic of Kazakhstan.

Footnote. Article 51 is in the wording of the Law of the Republic of Kazakhstan № 180-VI dated 12.07.2018 (shall be enforced upon expiry of ten calendar days after its first official publication).

Chapter 11. EXECUTION OF PUNISHMENT IN THE FORM OF CORRECTIONAL WORKS

Article 52. Procedure for execution of punishment in the form of correctional works

1. Correctional labor shall be performed at the convict's main place of work with a monthly transfer of ten to fifty percent of the wages (salary) to the Victims Compensation Fund until the full payment of the punishment in accordance with the court verdict.

2. Persons convicted to correctional works shall be brought to serving a sentence no later than the term of fifteen days from the date of admission to probation service of the relevant court order with a copy of court verdict.

3. Retentions shall be made from all the types of salary on the main place of work independently from existence of claims to convicted person on enforcement documents for each work completed during the month upon payment of salary.

4. Deductions shall be made from the monetary and in-kind part of salary of convicted persons. The withheld perquisite of the salary of convicted persons remains at the disposal of the employer, and its value shall be transferred to the Victims Compensation Fund on a monthly basis.

5. Retentions shall not be made from benefits obtained in the manner of social insurance and social security, from the lump sum payments.

6. Temporary disability benefits for persons convicted to correctional works shall be calculated from salary without deduction of retentions imposed by court verdict.

7. Convicted person, probation service or administration of organization where he (she) works shall have the right to present a petition in court on reduction of amount of retentions from his (her) salary in case of aggravation of his (her) financial condition.

8. Upon occurrence of pregnancy of convicted person during the period of serving a sentence, probation service shall make a submission in court on deferral of her service of sentence from the date of provision of pregnancy leave and maternity leave.

9. When a convicted person is found to have a disability of the first or second category, the probation service submits to the court a recommendation on his release from further serving the sentence.

10. In case of cancellation or change of the verdict with termination of case, convicted person shall be returned by sums deducted from his (her) salary in full or sums deducted in excess.

Footnote. Article 52 as amended by the Law of the Republic of Kazakhstan № 132-VI dated 10.01.2018 (shall be enforced from 01.07.2018); № 292-VI dated December 27, 2019 (

see Art. 2 for the enactment procedure); dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 53. Conditions of serving a sentence in a form of correctional works

1. Person convicted to correctional works shall be obliged to:

- 1) comply with procedure and conditions of serving a sentence established by this Code;
- 2) visit the probation service once a quarter to participate in a preventive conversation;
- 3) inform probation service in written on change of the place of work and (or) residence.

2. Untimely receipt of call, as well as disease and other documented circumstances of convicted person that deprives him (her) of possibility of well-timed attendance at call shall be recognized as justifiable reasons of non-attendance of convicted person to probation service in designated period.

Footnote. Article 53 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

Article 54. Responsibility of convicted person for violation of the procedure and conditions of serving a sentence in the form of correctional works

1. For violation of procedure and conditions of serving a sentence in the form of correctional works by convicted person, the probation service shall inform him (her) in written on responsibility provided by the Criminal Code of the Republic of Kazakhstan.

2. In respect of convicted person avoiding the service of sentence in the form of correctional works or being unemployed within three months from the date of loss of work or dissolution of labour agreement, the probation service shall make a submission in court on change of unserved part of punishment imposed for criminal infraction by involving to public works or arrest, and unserved part of punishment imposed for a crime by deprivation of freedom.

3. Convicted person shall be recognized as avoiding the service of sentence in the form of correctional works as follows:

- 1) that not fulfilled the obligations mentioned in a part one of Article 53 of this Code repeatedly within a year;
- 2) that hid for the purpose of avoiding the service of sentence;
- 3) leaved beyond the boundaries of the Republic of Kazakhstan.

4. Person avoiding the service of sentence shall be recognized as convicted person the location of whom is not established for more than fifteen days from the date of non-attendance for registration in probation service.

Article 55. Powers of probation service upon execution of punishment in the form of correctional works

Probation service shall:

- 1) record convicted persons;
- 2) explain procedure and conditions of serving a sentence to convicted person, as well as control of serving a sentence;

- 3) control the correctness and timeliness of deductions from the salaries of convicted persons and transfer of the withheld amounts to the Victims Compensation Fund;
- 4) conduct preventive conversation with convicted person once a month;
- 5) direct convicted persons to employment centers for arrangement of labour when necessity;
- 6) carry out initial search activities and make submission in court on putting on the wanted list in respect of convicted person hided for the purpose of avoiding the service of sentence.

Footnote. Article 55 as amended by the Law of the Republic of Kazakhstan dated 10.01.2018 № 132-VI (shall be enforced from 01.07.2018).

Article 56. Obligations of administration of organization at the place of serving a sentence in the form of correctional works

1. Administration of organization at the place of serving a sentence in the form of correctional works shall be obliged to:

- 1) timely transfer deductions from the convict's salary to the Victim Compensation Fund, about which, once a quarter, submit supporting documents to the probation service;
- 2) notify probation service on avoiding of convicted person from service of sentence within three business days;
- 3) notify probation service in advance on transfer of convicted person to other positions or dismissal.

2. Non-fulfillment of obligations by administration of organization at the place of serving a sentence in the form of correctional works mentioned in a part one of this Article shall entail responsibility established by the Law.

Footnote. Article 56 as amended by the Law of the Republic of Kazakhstan № 132-VI dated 10.01.2018 (shall be enforced from 01.07.2018); № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

Chapter 12. EXECUTION OF PUNISHMENT IN THE FORM OF INVOLVEMENT TO PUBLIC WORKS

Article 57. Procedure for execution of the punishment in the form of involvement to public works

1. Punishment in the form of involvement to public works consists of performance of unpaid works being valuable to the community by convicted person that do not require particular qualification organized by local executive bodies in public places located at the place of his (her) residence place.

2. Punishment in the form of involvement to public works shall be levied for execution not later than ten days term from the date of receipt of court order by probation service with a copy of court verdict entered into legal force.

Control of performance of public works by convicted persons shall be carried out by probation service at the place of residence of the convicted person.

3. Provision of regular leave to convicted person at the main work place shall not suspend performance of public works.

4. Upon occurrence of pregnancy of convicted person during the period of serving a sentence, probation service shall make a submission in court on deferral of her service of sentence from the date of provision of pregnancy leave and maternity leave.

5. When a convicted person is found to have a disability of the first or second category, the probation service submits to the court a recommendation on his release from further serving the sentence.

Footnote. Article 57 as amended by the Law of the Republic of Kazakhstan dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 58. Calculation of term of punishment in the form of involvement to public works

1. Term of punishment in the form of involvement to public works shall be calculated in hours within which convicted person performed the public works.

2. Public works shall be performed with release of convicted person from employment duties at the place of main work for a period of their performance or in a time free from study not more than four hours per day.

3. Convicted persons that do not have permanent work place and that do not study in educational institutions shall perform public works for up to eight hours per day but not more than forty hours per week.

Article 59. Conditions of serving a sentence in the form of involvement to public works

Convicted person shall be obliged to:

- 1) comply with procedure and conditions of serving a sentence established by this Code;
- 2) perform works organized by local executive bodies in public places;
- 3) bring probation service in knowledge on a change of residence place;
- 4) attend in probation service for registration and participation in preventive conversation once a month.

Reasonable cases of non-attendance are mentioned in a part two of Article 53 of this Code

Article 60. Responsibility of convicted person for violation of the procedure and conditions of serving a sentence in the form of involvement to public works

1. For violation of procedure and conditions of serving a sentence in the form of involvement to public works by convicted person, probation service shall prevent him (her) in written form on responsibility provided by the Criminal Code of the Republic of Kazakhstan.

2. In relation to a convicted person who evades serving a sentence in the form of involvement in community service, the probation service shall send a submission to the court to replace the unexecuted part of the punishment imposed for a criminal offense with arrest,

and the unexecuted part of the punishment imposed for a crime - with restraint of liberty or deprivation freedom.

3. Convicted person shall be recognized as avoiding the service of sentence in the form of involvement to public works as follows:

1) that refused to begin execution of the punishment in the form of public works or that did not attend public works more than two times within month without justifiable reasons that include disease and other duly documented reasons impeding performance of public works;

2) that attended under the influence of alcoholism, drug intoxication or substance abuse confirmed by medical certification two times during the period of serving a sentence or in the absence of such possibility – by commission act of an employer;

3) that hid for the purpose of avoiding the service of sentence;

4) leaved beyond the boundaries of the Republic of Kazakhstan.

4. Person avoiding the service of sentence shall be recognized as convicted person the location of whom is not established for more than fifteen days from the date of non-attendance for registration in probation service.

Footnote. Article 60 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

Article 61. powers of probation service upon execution of the punishment in the form of involvement to public works

Probation service shall:

1) record convicted persons;

2) explain procedure and conditions of serving a sentence to them, as well as control of serving a sentence;

3) control the execution of public works organized by local executive bodies;

4) conduct preventive conversation with convicted person once a month;

5) carry out initial search activities and make submission in court on putting on the wanted list in respect of convicted person hid for the purpose of avoiding the service of sentence.

Article 62. Powers of local executive bodies upon the execution of punishment in the form of involvement to public works

1. Local executive bodies shall be obliged to:

1) notify probation service immediately on receipt of court verdict and its execution;

2) keep time sheet of worked hours, draw up the act of performed works and direct them to probation service not later than the last date of current month;

3) inform probation service on behavior of convicted person;

4) notify probation service on avoiding of convicted person from service of sentence.

2. Non-fulfillment of obligations mentioned in a part one of this Article by civil servants of local executive bodies upon the execution of punishment in the form of involvement to public works shall entail responsibility established by the Law.

Chapter 13. EXECUTION OF PUNISHMENT IN THE FORM OF RESTRICTION OF FREEDOM

Article 63. Procedure for execution of punishment in the form of restriction of freedom

1. Persons convicted to restriction of freedom shall serve a sentence at the residence place in conditions of probation control carried out in respect of them.

2. Involvement of persons convicted to restriction of freedom to the forced labour shall be organized by local executive bodies in accordance with Articles 57-59 of this Code.

3. Those convicted to restriction of freedom have the right to apply to local executive bodies, public associations and other organizations for obtaining social and legal assistance within the framework established by the legislation of the Republic of Kazakhstan.

Footnote. Article 63 as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced sixty calendar days after the day of its first official publication).

Article 64. Calculation of term of serving a sentence in the form of restriction of freedom

Term of serving a sentence in the form of restriction of freedom shall be calculated from the date of the court verdict entered into legal force being received for execution by probation service.

Article 65. Direction of person convicted to restriction of freedom to the place of serving a sentence

1. Convicted person to whom the unserved part of deprivation of freedom is substituted by the punishment in the form of restriction of freedom shall be released from custody and go to the place of serving a sentence on an independent basis at the expense of budget funds.

Administration of the institution shall issue prescription to convicted person on departure to the place of serving a sentence specifying a route and time of arrival to probation service for recording, as well as direct the materials characterizing him (her) to the probation service.

2. Upon non-arrival of convicted person to the place of serving a sentence in established term, probation service shall conduct initial search activities and make submission in court on putting on the wanted list if the place of arrival of convicted person is not established.

Article 66. Conditions of serving a sentence in the form of restriction of freedom

1. Convicted person serving a sentence in the form of restriction of freedom shall be obliged to:

- 1) fulfill the obligations imposed by court;
- 2) perform requirements of probation service;
- 3) not to visit places determined by court upon the recommendation of probation service;
- 4) not to change place of residence, work, study without notifying the probation service;
- 5) not to leave beyond the boundaries of the administrative territorial entity without notifying probation service;

6) attend in probation service in established days for registration and conduct of educational work with them. Justifiable cases of non-attendance are mentioned in a part two of Article 53 of this Code;

7) have a document certifying identity.

2. Convicted persons serving a sentence in the form of restriction of freedom shall have the right to study in educational institutions located within administrative territorial entity at the place of serving the sentence. With agreement of probation service, convicted person shall have the right to study in educational institutions located beyond the boundaries of administrative territorial entity with compulsory recording in probation service at location of educational institution.

Article 67. Violation of procedure and conditions of serving a sentence in the form of restriction of freedom

1. Violation of procedure and conditions of serving a sentence in the form of restriction of freedom are:

1) non-fulfillment of obligations mentioned in a part one of Article 66 of this Code;

2) intended damage (waste) of electronic follower arrangement;

3) commission of administrative infractions infringing on rights of a person, rights of minor children, family relations, public order and morality for commission of which the administrative sanction is imposed on convicted person.

2. Gross violations of serving a sentence in the form of restriction of freedom are:

1) repeatedly commission of the violations mentioned in a part one of this Article within a year;

2) leave beyond the boundaries of the Republic of Kazakhstan;

3) commission of a criminal offence by convicted person, including a repeated crime, if the pre-trial proceedings shall be terminated on the basis of part one of Article 65, parts one and three of Article 68, parts two and four of Article 78 of the Criminal Code of the Republic of Kazakhstan;

4) refuse from performance of legal requirements, and equally insult or threat of using force in respect of a servant of probation service;

5) concealment from probation control;

6) avoiding from performance of forced labour without justifiable reasons mentioned in subparagraph 1) of a part three of Article 60 of this Code.

3. Convicted person the location of whom is not established for more than fifteen days from the date of non-attendance for registration in probation service shall be recognized as a person hiding from probation control.

Footnote. Article 67 as amended by the Law of the Republic of Kazakhstan 21.01.2019 № 217-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 68. Responsibility of convicted person for violation of procedure and conditions of serving a sentence in the form of restriction of freedom

1. For violation of procedure and conditions of serving a sentence in the form of restriction of freedom, the recovery in the form of written warning on substitution of restriction of freedom by deprivation of freedom shall be applied.

2. In respect of convicted person grossly violating procedure for serving a sentence, the probation service shall represent materials in court for resolution of issues on substitution of restriction of freedom by deprivation of freedom.

Article 69. Probation control of convicted person serving a sentence in the form of restriction of freedom

1. Probation control of convicted person serving a sentence in the form of restriction of freedom shall be carried out by probation service at the place of his (her) residence.

For ensuring of proper control and receipt of information on location of convicted person, the probation service shall have the right to use electronic follower arrangement, the list of which shall be determined by the Government of the Republic of Kazakhstan.

2. Upon recording of convicted person to restriction of freedom being under probation control, the probation service shall:

1) establishes the place of residence of the convict, his state of health, level of education and employment;

2) clarifies to the convict the procedure for obtaining social and legal assistance, implementation and termination of probation control against him, and also establishes the days of his appearance for the registration at the probation service;

3) explain procedure to convicted person for fulfillment of obligations and forced labour imposed by court, bringing to responsibility for their non-fulfillment, as well as violations of conditions and procedure for probation control.

3. When a convicted person is found to have a disability of the first or second category, the probation service sends to the court a recommendation on his release from forced labor, and in the case of pregnancy of the convicted person, a recommendation on postponement of her sentence.

4. Concerning the convicted who has disappeared for the purpose of evasion from serving sentence, the service of a probation shall carry out initial search actions and bring in court idea of the announcement him in search.

Footnote. Article 69 with the change made by the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced after ten calendar days after day of its first official publication); dated 30.12.2021 № 95-VII (shall be enforced sixty calendar days after the day of its first official publication); dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication).

Chapter 14. EXECUTION OF ADDITIONAL TYPES OF PUNISHMENTS

Article 70. Procedure for execution of the punishment in the form of deportation of foreign person or stateless person from the Republic of Kazakhstan

1. Execution of the court verdict which has taken legal effect on exclusion out of borders of the Republic of Kazakhstan of the foreigner or the person without citizenship shall be made forcibly.

A foreigner or a stateless person who is being expelled on the basis of a decision of the internal affairs bodies on the preventive restriction of freedom of movement, sanctioned by the court, is placed in a special institution of the internal affairs bodies for the period necessary to organize his expulsion from the Republic of Kazakhstan, but not more than thirty days.

Expulsion is carried out by escorting the deported foreigner or stateless person to the State Border of the Republic of Kazakhstan in the manner determined by the Government of the Republic of Kazakhstan, with the establishment of a ban on entry into the territory of the Republic of Kazakhstan for a period of five years.

2. Expenses on deportation of convicted person shall be incurred by himself (herself) or by individuals or legal entities that invited him (her) to the Republic of Kazakhstan. In the absence or deficiency of funds of mentioned persons for covering the expenses, the deportation shall be carried out at the expense of budget funds.

Footnote. Article 70 with the change made by the Law of the Republic of Kazakhstan dated 22.12.2016 № 28-VI (shall be enforced after ten calendar days after day of its first official publication); № 385-VI dated 19.12.2020 (shall be enforced ten calendar days after the day of its first official publication).

Article 71. Procedure for execution of punishment in the form of deprivation of special, military or honorary titles, class rank, diplomatic rank, qualification class and state awards

1. Court that delivered verdict in the form of deprivation of special, military or honorary titles, class rank, diplomatic rank, qualification class of convicted person shall direct its copy after entering of the verdict into legal force to a civil servant that awarded the title, class rank, diplomatic rank, qualification class to convicted person.

2. Civil servant shall make an entry into the relevant documents on deprivation of special, military or honorary title, class rank, diplomatic rank, qualification class of convicted person in established manner, as well as shall take measures on deprivation of his (her) rights and benefits provided for persons having the relevant title, grade, rank, class.

3. Copy of court verdict in respect of a military servant in stock shall be directed to local body of military administration at the place of his (her) military registration.

4. Civil servant shall report to the court that delivered the verdict on its execution within one month from the date of receiving a copy of verdict.

5. Upon adoption of decision by the President of the Republic of Kazakhstan on deprivation of special, military or honorary titles, class rank, diplomatic rank, qualification class and state award of convicted person in accordance with the Criminal Code of the Republic of Kazakhstan, the relevant state body shall take measures mentioned in a part two

of this Article. Seizure of state awards together with their documents shall be carried out by probation service at their location in the manner determined by the authorized body in the scope of penal execution activity.

Article 71-1. An execution order of the punishment in the form of citizenship deprivation of the Republic of Kazakhstan

1. The court which has pronounced a sentence about citizenship deprivation of the Republic of Kazakhstan after the introduction of it in validity shall send the copy of a sentence to authorized body according to the Law of the Republic of Kazakhstan of December 20, 1991 "On citizenship of the Republic of Kazakhstan".

2. Registration of citizenship deprivation of the Republic of Kazakhstan shall be carried out in the order established by regulations of the Ministry of Internal Affairs of the Republic of Kazakhstan and the Ministry of Foreign Affairs of the Republic of Kazakhstan.

3. At registration of citizenship deprivation of the Republic of Kazakhstan the document confirming citizenship of the Republic of Kazakhstan shall be withdrawn.

4. To the person deprived of citizenship of the Republic of Kazakhstan the certificate of the person without citizenship shall be issued if other is not provided by international treaties of the Republic of Kazakhstan.

Footnote. Chapter 14 is supplemented with article 71-1 according to the Law of the Republic of Kazakhstan from 11.07.2017 № 91-VI (shall be enforced after ten calendar days after day of its first official publication).

Article 72. Procedure for execution of punishment in the form of deprivation of right to hold particular position or engage in particular activity

1. Court verdict on life prohibition to hold pedagogical positions and positions linked with work with minor children shall be executed by organizations independently from the forms of ownership in the manner approved by the authorized body in the scope of education.

2. Court verdict on life prohibition to hold particular positions shall be executed by administrations of state institutions and organizations mentioned in the Criminal Code of the Republic of Kazakhstan.

3. Organization of executing the punishment in the form of deprivation of right to hold particular positions or engage in particular activity imposed as additional to arrest or deprivation of freedom shall be carried out by the institution or body executing the main punishment, and after serving the main punishments – by probation service at the place of residence of convicted person.

4. Organization of executing the punishment imposed as additional to other types of punishments, as well as upon deferral of serving the sentence or conditional sentence shall be carried out by probation service at the place of residence of convicted person.

5. Probation service shall:

- 1) record convicted persons;
- 2) control compliance of the prohibition by convicted person provided by court verdict to hold particular positions or engage in particular activity;
- 3) inspect the execution of court verdict by administration of the institution at the place of work of convicted person, as well as by bodies being legally qualified to revoke a permission to engage in the relevant type of activity prohibited for convicted person;
- 4) carry out initial search activities and make a submission in court on putting on the wanted list in respect of convicted persons hided for the purpose of avoiding the service of sentence.

6. Person avoiding the service of sentence shall be recognized as convicted person the location of whom is not established for more than fifteen days from the date of non-attendance for registration in probation service.

7. Administration of the institution or body executing the punishment in which a person convicted to additional punishment in the form of deprivation of right to hold particular positions or engage in particular activity serves the main type of punishment, shall not have the right to bring him (her) to works the performance of which is prohibited to him (her).

Article 73. Calculation of terms of executing the punishments in the form of deprivation of right to engage particular position or engage in particular activity

1. Upon imposition of punishment in the form of deprivation of freedom to hold particular positions or engage in particular activity as additional punishment to arrest or deprivation of freedom, it shall apply to all the time of serving main types of punishments, but by this his (her) term shall be calculated from the date of serving arrest, deprivation of freedom and recording in probation service.

2. In case of imposition of this type of punishment as additional to other main types of punishment, as well as deferral of serving a sentence or conditional sentence, its term shall be calculated from the date of entering of verdict into legal force.

Article 74. Conditions of serving a sentence in the form of deprivation of right to hold particular position or engage in particular activity

1. Person convicted to the punishment in the form of deprivation of right to hold particular positions or engage in particular activity shall be obliged to:

- 1) report on place of work and residence and their change, on dismissal to probation service;
- 2) attend at call in probation service.

2. In case of non-attendance without justifiable reasons mentioned in a part two of Article 53 of this Code, convicted person may be subject to bringing.

3. Person convicted to punishment in the form of deprivation of right to hold particular positions or engage in particular activity avoiding from execution of the punishment shall bear responsibility established by the Law.

Article 75. Obligations of administration of organizations on execution of court verdict on punishment in the form of deprivation of right to hold particular position

1. Independently from the forms of ownership, organizations shall check candidates for particular position with respect to life prohibition to hold pedagogical positions and positions linked with work with minor children, as well as at state service and in local self-government bodies.

2. Court verdict on deprivation of right to hold particular positions is mandatory for administration of state institutions and local self-government bodies.

Court verdict on deprivation of right to engage in particular activity is mandatory for administration of organization at the work place of convicted person.

3. Administration of organization at the work place of convicted person shall be obliged to:

1) release convicted person from position or such type of activity for the right to engage in which he (she) is deprived, not later than three business days after receipt of a copy of court verdict entered into legal force or notification of probation service, and send up a report to probation service on execution of the court verdict;

2) represent documents at the request of probation service linked with execution of the punishment;

3) report to probation service in cases of change or termination of employment agreement with convicted person within three business days.

4. Civil servants of organizations on which the obligations on execution of the court verdict on execution of the punishment in the form of deprivation of right to hold particular position are imposed, the persons guilty in its non-execution shall bear responsibility established by the Law.

Article 76. Obligations of bodies legally qualified to revoke permission for engagement in particular activity

1. Court verdict on deprivation of right to hold particular activity by convicted person shall be mandatory for bodies being legally qualified to revoke permission for engagement in the relevant type of activity.

2. Mentioned bodies shall be obliged to revoke permission for engagement in the type of activity that is prohibited for convicted person, to seizure the relevant document affording the

right to this person to engage in the mentioned type of activity and to send up a report about this to probation service not later than three business days after receipt of a copy of the court verdict entered into legal force, notification of probation service.

3. Civil servants of bodies being legally qualified to revoke permission for engagement in particular activity, the persons guilty in non-execution of the court verdict on deprivation of right to engage in particular activity shall bear responsibility established by the Law.

Article 77. Procedure for execution of court verdict on confiscation of property

1. Court that delivered a verdict on confiscation of property of convicted person after its entering into force shall direct order of enforcement, copy of property inventory and copy of the verdict to officer of justice for execution, on which he (she) shall notify the authorized state body. In the absence of property inventory of convicted person in the case, the note that property inventory was not made shall be directed.

2. Execution of the punishment in the form of confiscation of property shall be carried out by officer of justice at location of property.

Article 78. Property being subject to confiscation

1. Money and other property as follows shall be subject to confiscations under the court verdict:

1) received in a result of commission of criminal infraction, and other incomes from this property with the exception of property and incomes from it subject to resumption to a legal owner;

2) in which the property received in a result of commission of criminal infraction and incomes from this property were partially or fully transformed or converted;

3) used or intended for financing or other ensuring of extremist or terrorist activity or criminal group;

4) being a weapon or mean of committing a criminal infraction.

2. If property received in a result of commission of criminal infraction, and (or) the incomes from this property were turned to the property acquired in a lawful way, the part of this property that corresponds the cost of turned property and incomes from it shall be subject to confiscation.

3. Property mentioned in parts one and two of this Article transferred by convicted person to other individual or legal entity shall be subject to confiscation, if the person that acquired the property designedly knew that it is received in a result of criminal actions.

4. If the confiscation of particular subject included to the property mentioned in parts one, two and three of this Article is impossible from the date of taking decision by court on confiscation of this subject due to its use, sale or by the other reason, the amount of money that corresponds the cost of this subject shall be subject to confiscation.

5. Property of convicted person shall not be subject to confiscation in accordance with the list established by the annex to this Code.

6. Disputes on belonging of property being subject to confiscation under the court verdict shall be resolved in the manner of civil proceeding.

Article 79. Actions of officer of justice on execution of court verdict on confiscation of property

1. An Enforcement Agent not later than three days after receipt of an executive document to him, shall initiate enforcement proceedings, decide, checks the availability of the property specified in the executive document, and make an inventory of the property subject to confiscation.

2. Inventory shall include full and precise name of each subject, its distinguishing marks as well as color, size, extent of use and individual characteristics. Declared subjects shall be sealed, stamped and transferred for keeping on which a note in inventory shall be made.

3. Officer of justice shall take necessary measures for preservation of property being subject to confiscation and subjected to inventory.

4. Share of convicted person in common and joint ownership shall be determined upon the recommendation of officer of justice by court in the manner of civil proceeding.

Footnote. Article 79 as amended by the Law of the Republic of Kazakhstan № 217-VI dated 21.01.2019 (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 80. Transfer of confiscated property to authorized state body

1. A confiscated property of a convicted person shall be transferred to the authorized state agency after satisfaction of all requirements in accordance with the legislation of the Republic of Kazakhstan imposed on him, including at the expense of confiscated property.

2. Procedure for transfer of confiscated property to authorized state body shall be determined by the Government of the Republic of Kazakhstan.

Footnote. Article 80 as amended by the Law of the Republic of Kazakhstan № 217-VI dated 21.01.2019 (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 81. Obligations of third parties in respect of property being subject to confiscation

1. Individuals and legal entities that came to knowledge on existence of the property being subject to confiscation under court verdict shall be obliged to notify the court or authorized state body about this.

2. For concealment, waste or stealing of mentioned property, guilty persons shall be brought to responsibility in accordance with the Law.

Article 82. Confiscation of property detected after execution of court verdict

In cases after the execution of court verdict in a part of confiscation of all the property, but before expiry of the limitation periods of executing the condemnatory sentence established by the Law, a non-confiscated property of convicted person acquired by him (her) before or after delivery of court verdict, but for funds being subject to confiscation, court that delivered a verdict, or court at the place of execution of the court shall issue regulation on conversion of confiscation of detected property to execution, if it may be confiscated according to the Law.

SECTION 4. EXECUTION OF PUNISHMENTS LINKED WITH ISOLATION OF CONVICTED PERSONS FROM SOCIETY

Chapter 15. EXECUTION OF PUNISHMENT IN THE FORM OF ARREST

Article 83. Places of serving a sentence in the form of arrest

1. Convicts shall serve the sentence in the form of arrest in the place of condemnation in special receivers, the isolated sites of pre-trial detention centers.

2. Military servants shall serve a sentence in the form of arrest in detention room.

Internal regulation and procedure for maintenance of convicted persons in detention room shall be determined by authorized bodies in the scopes of penal execution activity, national security, defence of the Republic of Kazakhstan.

Footnote. Article 83 with the change made by the Law of the Republic of Kazakhstan from 18.04.2017 № 58-VI (shall be enforced after ten calendar days after day of its first official publication).

Article 84. Direction of persons convicted to arrest for serving a sentence

1. Convicted persons shall be directed for serving a sentence from the date of entering of the court verdict into legal force.

2. Convicted military servants shall be directed to detention room for serving a sentence within three days from the date of receiving the regulation of court on the execution of verdict entered into legal force.

Article 85. Procedure for execution of punishment in the form of arrest

1. Persons convicted to arrest shall be detained in conditions of strict isolation in prison cells.

Men and women, as well as persons previously served the punishment in the institutions and having a record of conviction shall be detained separately.

Convicted persons suffered from different infectious diseases shall be detained separately and severally from healthy convicted persons.

Convicted persons – previous employees of courts, law enforcement and special state bodies, the persons authorized for carrying out of control and supervision of behavior of convicted persons shall be detained isolated from other convicted persons.

In case of direction of convicted person for hospitalizing in medical institutions of public health organizations, convoy shall be provided for his (her) safety ensuring.

2. Convicts to arrest shall be provided with food on the norms established for convicts to imprisonment.

Military personnel during maintenance on a guardroom shall be provided with food on the norms established by authorized bodies in spheres of criminal and executive activity, national security, defense of the Republic of Kazakhstan in coordination with the central authorized body on budget planning.

3. Convicted officers, military servants of non-commissioned, senior and private personnel shall be detained separately and severally during serving of sentence in the form of arrest from military servants detained in detention room by other grounds.

Footnote. Article 85 with the change made by the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced after ten calendar days after day of its first official publication).

Article 86. Conditions of serving a sentence in the form of arrest

1. Convicted persons shall have the rights mentioned in Article 10 and obligations mentioned in Article 11 of this Code.

2. Convicted persons shall have the right to:

1) receive and send letters at their own expense once a month;

2) receive money orders;

3) spend funds placed on controlled cash accounts of temporary money allocation on a monthly basis for acquisition of food products and prime necessities in amount up to one monthly calculation index;

4) receive parcels, packages, letter packets containing prime necessities and seasonable clothes once a month.

Ill convicts, convicts with disabilities have the right to receive parcels and deliveries with medicines and medical products in the quantity and assortment determined by the medical report;

5) appointments with an attorney for the defence without restriction of their quantity, length and in conditions ensuring their confidentiality;

6) daily walk with a length no less than one and half hours;

7) telephone conversation with a husband (wife), close relatives at the expense of personal funds in cases of death or serious disease of the husband (wife), close relative threatening life of diseased person; natural disaster inflicted significant material damage to his (her) family and other exceptional circumstances of personal character;

8) short-term departures for a term of no more than seven days without consideration of time required for travel at both ends (no more than five days) due to death or serious disease of a husband (wife), close relative, threatening life of diseased person, natural disaster inflicted significant material damage to his (her) family.

Footnote. Article 86 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure); dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 87. Special aspects of legal provision of convicted military servants serving a sentence in the form of arrest

1. Period of serving a sentence in the form of arrest shall not be reckoned in general term of military service and years of service for awarding of a regular military rank.

2. During serving a sentence, convicted person may not be recommended for awarding of a regular military rank, appointed to senior position, transferred to a new place of service and dismissed from military service with the exception of condemning as unserviceable according to health condition.

3. Monetary allowance shall not be paid to convicted military servants for the period of serving a sentence in the form of arrest.

Chapter 16. GENERAL PROVISIONS OF EXECUTING THE PUNISHMENT IN THE FORM OF DEPRIVATION OF FREEDOM

Article 88. Places of executing the punishment in the form of deprivation of freedom

1. Persons convicted to deprivation of freedom shall serve a sentence in the institutions.

Person convicted to deprivation of freedom shall serve a sentence in one of the institutions with the exception of cases provided by this Code.

2. Persons convicted to deprivation of freedom shall be directed to the institution in recognition of conditions required for their correction, maintenance of social useful relations, safety ensuring and prevention of commission of new infractions by them.

3. Direction of convicted person to the institution of the relevant type of regime of other oblast for serving a sentence shall be allowed under decision of the authorized body of correctional system in cases of:

- 1) absence of the relevant type of institution at the residence place of convicted person;
- 2) excess of a limit of the places for serving the sentences provided by part two of Article 115 of this Code.

4. The transferring of the convicted for further serving sentence from one institution in another of the same kind or institution of the mixed safety is allowed according to the decision of authorized body of a penal system in cases:

1) safety ensuring of convicted person in accordance with part five of Article 12 of this Code;

2) reorganization or liquidation of the institution;

3) production necessity with the agreement of convicted person;

4) necessity of maintaining the order in the institution.

A decision of the authorized body of the penal system to transfer a convicted person to an institution of another region (capital, city of republican significance) on the grounds provided for in subparagraphs 1) and 4) of paragraph one of this part is made taking into account the conclusion of the district or equivalent prosecutor at the place of serving the sentence.

The authorized body of the penal system must notify the prosecutor in writing about the decision to transfer the convicted person on the grounds provided for in subparagraphs 1) and 4) of this part.

4-1. A convicted person sent or transferred to another institution in accordance with parts three and four of this article, in the absence of further grounds for his/her detention, upon his/her request or with his/her consent in order to maintain socially useful ties, shall be subject to transfer to another institution of the corresponding type if there is a place in it.

The prerequisites for the transfer of a convicted person shall be the absence of a negative degree of behavior for a convicted person, directed or transferred in accordance with part three, subparagraphs 1), 2) and 3) of part four of this article, and for a convict transferred on the basis of subparagraph 4) of part four of this article, - the presence of a positive degree of behavior.

At the same time, the socially useful connections of the convict shall be documented.

The transfer of a convicted person to maintain socially useful ties shall be carried out in accordance with the rules approved by the authorized body in the field of criminal executive activity in agreement with the General Prosecutor's Office of the Republic of Kazakhstan.

5. In a dangerous repetition of crimes, those convicted to a life imprisonment, to serving a sentence in the institution of complete security, those convicted whose punishment in the form of a death penalty was replaced by a deprivation of liberty in the manner of a pardon or in connection with the application of the law canceling a death penalty, convicted women, convicted minors are sent to serving a sentence at the location of the relevant institutions.

6. Foreign persons convicted to deprivation of freedom serving a sentence in the institutions of the Republic of Kazakhstan may be directed for the further service of sentence to the states, the citizens (nationals) of which they are, in the manner established by the international treaties ratified by the Republic of Kazakhstan or under written agreements on the terms of mutuality of the General Prosecutor of the Republic of Kazakhstan with competent bodies and civil servants of foreign state in the manner provided by the Criminal Procedure Code of the Republic of Kazakhstan.

Footnote. Article 88 with the changes made by laws of the Republic of Kazakhstan from 18.04.2017 № 58-VI (shall be enforced after ten calendar days after day of its first official

publication); dated 03.07.2017 № 84-VI (shall be enforced after ten calendar days after day of its first official publication); № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure); dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication); dated 05.11.2022 № 157-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 89. Types of institutions

1. Institutions shall be divided into:

- 1) institutions of minimum safety;
- 2) institutions of medium safety;
- 3) institutions of medium safety for detention of minor children;
- 4) institutions of maximum safety;
- 5) institutions of emergency safety;
- 6) institutions of full safety;
- 7) institutions of mixed safety.

2. Institutions of mixed safety shall include:

- 1) institutions for detention of convicted persons with different types of regimes;
- 2) the pre-trial detention centers used for keeping of the persons convicted to arrest, imprisonment or the convicts to imprisonment left or directed for performance of work on economic service, or who have arrived from institutions according to the subparagraph 4) of a part of the fourth article 88 of the present Code.

3. In the minimum security institutions shall be serving a sentence by deprivation of freedom:

1) convicted persons specified in Paragraph 1) of part five of Article 46 of the Criminal Code of the Republic of Kazakhstan;

2) convicted persons transferred from medium and maximum security institutions in accordance with part one of Article 96 of this Code.

4. In medium security institutions, convicted persons serving a sentence by deprivation of freedom:

1) convicted persons specified in Paragraph 2) of part five of Article 46 of the Criminal Code of the Republic of Kazakhstan;

2) convicted persons transferred from institutions in accordance with Subparagraph 1) of part one, Subparagraphs 1) and 2) of part three of Article 96 of this Code;

3) convicted persons transferred from medium security institutions for minors detention in accordance with Article 156 of this Code.

5. In maximum security institutions shall be serving sentences by deprivation of freedom:

1) convicted persons specified in Paragraph 3) of part five of Article 46 of the Criminal Code of the Republic of Kazakhstan;

2) convicted persons transferred in accordance with Subparagraph 1) of part one, Subparagraph 1) of part three of Article 96 of this Code.

6. In institutions of emergency security, they serve a sentence of imprisonment:

1) convicted persons specified in paragraph 4) of part five of Article 46 of the Criminal Code of the Republic of Kazakhstan;

2) convicted persons to whom the death penalty has been commuted to life imprisonment by way of pardon or in connection with the application of the law abolishing the death penalty ;

3) convicted persons sent in accordance with part one of Article 92 of this Code.

7. In complete security institutions shall be serving a sentence deprivation of freedom:

1) convicted persons specified in part six of Article 46 of the Criminal Code of the Republic of Kazakhstan;

2) excluded by the Law of the Republic of Kazakhstan dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication).

3) convicted persons transferred in accordance with Subparagraph 4) of part four of Article 88 of this Code;

4) convicts sent in accordance with part one of Article 92 and part 3-1 of Article 96 of this Code.

8. Minor children convicted to deprivation of freedom, as well as convicted persons left in the institutions of medium safety for detention of minor children until their reaching of twenty one year, upon condition of stay in the institution no less than one year shall serve a sentence in the institutions of medium safety.

9. Convicted persons serving a sentence in the institutions upon suspicion or accusation in commission of other crime by them in coordination with its administration shall be detained in these institutions, but in isolation from other convicted persons serving a sentence.

10. In one institution where convicts live in cells, isolated areas with different types of regimes can be created.

The requirement of this part on detention in cell rooms does not apply to the persons specified in part three of Article 94 of this Code.

Footnote. Article 89 with the changes made by laws of the Republic of Kazakhstan from 18.04.2017 № 58-VI (shall be enforced after ten calendar days after day of his first official publication); dated 03.07.2017 № 84-VI (shall be enforced after ten calendar days after day of its first official publication); № 180-VI dated 12.07.2018 (shall be enforced upon expiry of ten calendar days after its first official publication); № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure); dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication); dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication).

Article 90. Direction of convicted persons for service of sentence

1. Convicted person shall be directed for service of sentence not later than ten days from the date of receiving regulation of court by administration of the institution of mixed safety on execution of sentence entered into legal force.

Within this term convicted person shall have the right to:

- 1) appointments with an attorney for the defence without restriction of their quantity, length and in conditions ensuring their confidentiality;
- 2) short-term appointment with a husband (wife), close relatives or other persons;
- 3) phone conversation with a length of fifteen minutes that shall be paid from his (her) own funds or funds of other persons.

2. Administration of the institution of mixed safety shall be obliged to direct written notification to a husband (wife) or to one of the relatives, or other person at the choice of convicted person within two business days on where he (she) is directed for service of sentence.

3. In the event of the onset of the right to submit a petition to the court to consider the issue of parole from serving a sentence or replacing the unserved part of the sentence with a milder type of punishment, the administration of a mixed security institution shall be obliged to take the measures provided for in parts one and nine of Article 162 of this Code.

Footnote. Article 90 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

Article 91. Transfer of convicted persons

1. Persons convicted to deprivation of freedom shall be directed to the place of serving a sentence and transported from one place of serving a sentence to another under convoy.

2. Movement of convicts under escort is carried out in compliance with the rules of detention: men separately from women, minors - from adults; convicted-under investigation passing in one criminal case, separately; those infected with tuberculosis or those who have not undergone a full course of treatment from sexually transmitted infections, patients with mental deviations separately from each other and separately from healthy ones, if necessary, under conclusion of a doctor, accompanied by medical workers.

3. Upon transfer of convicted persons under convoy, necessary living and sanitary hygienic conditions shall be provided for him (her).

4. When moving convicts, they shall be provided with clothing, footwear for the season, as well as food according to the norms established for convicts in accordance with the rules for moving convicts to imprisonment during the period of serving their sentence.

5. Transfer of convicted persons shall be carried out at the expense of budget funds.

6. Upon directing to the place of serving a sentence or transfer of convicted person to other institution, money placed on controlled cash accounts of temporary money allocation shall be transferred on controlled cash account of temporary money allocation to which the convicted person is directed or transferred.

7. Authorized civil servants shall take measures on provision of confidentiality and safety upon transfer of convicted persons.

8. In case of the announcement in accordance with the established procedure of emergency situations of social, natural or technogenic character or introduction of the mode of the special conditions excluding a possibility of finding of the convicts in institution on the decision of authorized body of a penal system they move to other institutions before elimination of consequences of emergency situation or the expiration of the mode of special conditions.

At the impossibility of elimination of consequences of emergency situation or situations which have formed the basis for input of the mode of special conditions, the convicts go to institutions of the corresponding format of this or other oblast.

Footnote. Article 91 with the change made by the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced after ten calendar days after day of its first official publication); № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure); dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication).

Article 92. Leaving convicts in a mixed security facility and transfer to an emergency or complete security facility

1. In order to perform maintenance work in institutions of mixed, emergency or complete security, the persons are involved convicted for the first time for deprivation of liberty who have been sentenced to serve their sentences in an institution of medium security. The decision to leave and involve in work is carried out with their consent by the decision of the head of the institution of mixed security on the basis of the materials of the commission of the institution.

The transfer of a convicted person to an institution of emergency or complete security is carried out in coordination with their superiors.

A copy of the resolution on leaving the convicted person in a mixed security institution or transferring him to an emergency or complete security institution is sent to the prosecutor no later than the next working day.

2. Convicted persons who have been left in a mixed security institution or transferred to emergency or complete security institutions to perform maintenance work shall be kept in isolation from other persons under the conditions provided for by this Code for medium security institutions.

3. If it is necessary to carry out investigative actions in the case of a crime committed by another person, a person sentenced to imprisonment with serving a sentence in institutions may be left in a mixed security institution, as well as transferred from another institution with the approval of the prosecutor for a period established by the Criminal Procedure Code of the Republic of Kazakhstan.

4. If it is necessary to participate in the judicial proceedings in the case of a crime committed by another person, the convicted person may, by court order, be left in a mixed security institution for the duration of the case in court under the conditions provided for by this Code for medium security institutions.

5. If a convicted person is brought to criminal responsibility in another case and a preventive measure in the form of detention is chosen against him, the terms of his detention in a mixed security institution are determined in accordance with the Criminal Procedure Code of the Republic of Kazakhstan.

6. A convicted person may be transferred to a mixed security institution on the grounds specified in parts three, four and five of this article, as well as to maintain law and order.

Convicted persons sent to institutions of mixed security, on the grounds provided for in parts three and four of this article, are kept in cells isolated from other persons, and they are subject to the conditions established by this Code for the institution of the type that was appointed by the court.

7. Convicted persons transferred to a mixed security institution to ensure law and order in institutions have the right:

1) to spend monthly for the purchase of food and basic necessities the funds available on the control cash accounts of temporary placement of money in the amount of up to two monthly calculation indices;

2) to have two short-term and two long-term dates during the year;

3) to enjoy a daily walk lasting an hour and a half.

Convicts are kept in cells and isolated from all categories of persons held in a mixed security facility.

Footnote. Article 92 - as amended by the Law of the Republic of Kazakhstan dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication); as amended by the Laws of the Republic of Kazakhstan dated 27.03.2023 № 216-VII (upon expiration of sixty calendar days after the date of its first official publication).

Article 93. Admission of convicted persons to the institutions

1. Admission of convicted persons to the institutions shall be carried out by administration in the manner established by the rules of internal regulation of the institutions. By this it shall be stated:

1) data on identity of convicted person and grounds of his (her) direction to the institution;

2) the list of property belonged to convicted person accepted by the institution for safe storage;

3) any bodily damage and detailed on a health of convicted person having relation to his (her) physical or mental condition;

4) complaints of convicted person.

1-1. A personal file shall be set up for each convicted person.

At the same time, the accounts of personal files shall not be subject to disclosure and shall be presented only to those persons whose professional duties require access to such credentials.

2. Convicted persons arrived to the institutions shall be placed in probationary ward for a term up to fifteen days. During the period of stay in probationary ward, convicted persons shall be in usual conditions of serving a sentence.

3. Purposes of stay in probationary ward are:

1) examination of the details on identity of convicted person by administration of the institution that is important for determination of the procedure and conditions of serving a sentence;

2) familiarization of convicted persons with procedure and conditions of serving a sentence;

3) detection and prevention of dissemination of infectious diseases of convicted persons.

Footnote. Article 93 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

Article 94. Separate detention of convicted persons in the institutions

1. Separate detention of convicted men and women, minor children and adults shall be established in the institutions.

2. Persons convicted to deprivation of freedom for the first time shall be detained separately from convicted persons previously served deprivation of freedom with the exception of persons mentioned in a part five of this Article. The action of this part shall not apply to minimum security institutions.

Women who have been sentenced to imprisonment for the first time and previously served this sentence, including former employees of courts, law enforcement and special state bodies, persons authorized to monitor and supervise the behavior of convicts, may be held separately in one institution.

The following are contained in isolation from other convicts, as well as separately: convicts with a dangerous repetition of crimes; convicted of life imprisonment; convicts whose life imprisonment is replaced in the manner of a pardon by a deprivation of liberty for a certain period; convicts whose death penalty is replaced in the manner of pardon by imprisonment or in connection with the application of a law canceling the death penalty.

3. Convicts – former employees of courts, law enforcement and special state bodies, persons authorized to exercise control and supervision over the behavior of convicts - are held in separate institutions, regardless of the number of convictions.

In case of impossibility of separate detention of convicted women – former employees of courts, law enforcement and special state bodies, persons authorized to exercise control and supervision over the behavior of convicts, they may be held in institutions separately from other convicts.

This part does not apply to minimal security institutions.

4. Requirements of separate detention of convicted persons established by this Article shall not apply to the institutions under which there are children's homes.

5. Convicted persons suffering from different infectious diseases shall be detained separately and severally from healthy convicted persons. In medical and preventive treatment facilities (hospitals, special mental health and antituberculous facilities) convicted persons shall be detained together independently from the type of regime determined by court. In antituberculous facilities separate detention of convicted persons shall be determined by medical evidences.

Footnote. Article 94 as amended by the Law of the Republic of Kazakhstan № 180-VI dated 12.07.2018 (shall be enforced upon expiry of ten calendar days after its first official publication); № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure); dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication); dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication).

Article 95. Assessment of behavior of convicted person for the purpose of individualization of his (her) punishment

1. During the period of executing the punishment for the purpose of its individualization, the assessment of behavior of convicted person shall be carried out by determination of the grade of his (her) behavior.

2. Grade of behavior of convicted person is a ground for:

1) change of type of the institution in which he (she) serves a sentence in accordance with Article 96 of this Law;

2) change of conditions of serving a sentence by him (her) in accordance with Articles 135, 137, 139, 142, 144, 150 of this Code;

3) extension of his (her) rights or establishment of the right of restrictions in accordance with Articles 128, 130, 152, 154 of this Code.

3. The degree of the convict's behavior shall be determined by the decision of the head of the institution on the basis of the materials provided by the commission of the institution characterizing his/her behavior (compliance with the internal regulations of institutions; attitude to work and study; participation in educational activities; participation in programs aimed at providing social and legal assistance to convicts; acceptance measures to compensate for the harm caused by the crime).

4. Behavior assessment of the convicted for the purpose of behavior degree shall be carried out from the date of arrival of the convicted to the institution.

Convicted, not having encouragement and penalties or penalties which are extinguished in the order established by the present Code shall be admitted of not having definite behavior degree.

In case of the transfer from other institution of the same format of earlier put down mark remains until consideration of his behavior by the commission of institution in the terms provided by the present Code.

Behavior degrees of the convicts are defined on the basis of the following criteria:

for positively characterized convicts:

1) the first positive degree of behavior – in the presence of not less than one encouragement and lack of penalties within three months and more from the date of receiving the last encouragement;

2) the second positive degree of behavior - in the presence of the first positive degree of behavior, at least one encouragement and the absence of penalties for six months or more from the date of obtaining the first positive degree of behavior;

3) the third positive degree of behavior - in the presence of a second positive degree of behavior, at least one encouragement and the absence of penalties for one year or more from the date of obtaining the second positive degree of behavior;

for negatively characterized convicts:

1) the first negative degree of behavior – at recognition by the violator of an established order of serving sentence;

2) the second negative degree of behavior – at recognition by the systematic violator of an established order of serving sentence;

3) the third negative degree of behavior – at recognition by the malicious violator of an established order of serving sentence.

Recognition of the convict by the violator, systematic violator or malicious violator of an established order of serving sentence is carried out according to a part of the third article 130 and a part of the fourth article 154 of the present Code.

Footnote. Article 95 with the changes made by the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced after ten calendar days after day of its first official publication); № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

Article 96. Change of the type of the institution

1. Convicted persons having the second or third positive grade of behavior shall have the right to petition the court for changing the type of:

1) of complete security institution to maximum or medium security institution – after the convicted persons have served at least half of the term appointed by the verdict, court order in a complete security institution;

2) the institutions of medium or maximum safety to the institution of minimum safety – upon serving no less than one fourth of the term of punishment for crimes of non-grave and average gravity, no less than one third of the term of punishment for grave crimes by convicted persons being in light and preferential conditions of serving a sentence, and no less

than two thirds of part of the punishment by those previously released from service of deprivation of freedom on probation-on parole and committed new crimes during the period of the rest unserved part of the punishment.

2. The following convicted persons shall not be subject to transfer to the institutions of minimum safety:

1) convicted upon dangerous repetition of crimes;

1-1) for the commission of crimes provided by Chapter 15 of the Criminal Code of the Republic of Kazakhstan, that did not compensate for the damage caused by the crime;

2) convicted for commission of especially grave crimes, as well as terroristic or extremist crimes;

3) convicted to life deprivation of freedom, as well as convicted persons to which life deprivation of freedom is substituted by deprivation of freedom for particular term in the manner of the act of oblivion;

4) whose punishment in the form of a death penalty was replaced in the manner of pardon by deprivation of liberty or in connection with the application of the law canceling the death penalty;

5) that did not undergo compulsory treatment, as well as requiring special treatment in medical preventive institutions;

6) having negative grade of behavior.

3. Concerning the convicts having the third negative degree of behavior and who have made malicious violation of an established order of serving sentence ideas of the transfer from institution are brought in the court:

1) of minimum safety – to the institution the type of which was previously determined by court verdict;

2) of minimum safety to which they were directed under the court verdict;

3) is excluded by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

3-1. In relation to convicts who have a third negative degree of behavior and have committed a malicious violation of the established procedure for serving a sentence provided for in sub-paragraphs 1), 2), 7), 9), 11) and 12) of part two of Article 130 of this Code, a recommendation is submitted to the court about the transfer from an institution of medium, maximum security to an institution of complete security for a period not exceeding three years with serving the remaining sentence in the institution of the type of security from where they were transferred to the institution of complete security.

In this case, a submission to the court shall be made on the condition that a malicious violation of the established procedure for serving a sentence is committed by the convicted person after the application of a penalty in the form of transfer to a solitary confinement cell for a previous malicious violation of the established order of serving the sentence.

The change of the type to a full security facility is not allowed in relation to convicted pregnant women and convicted women who have young children with them, as well as convicts with disabilities.

3-2. If the administration of the institution applies to the court with a submission to change the type of institution provided for in parts three and 3-1 of this article, copies of such submission and materials shall be sent to the prosecutor no later than the next working day.

4. At departure convicted the parts of term of the punishment established by part one of the present article, the administration of the institution is obliged to notify in writing in five-day time the convict having the second or third positive degree of behavior on approach of the right of submission of the petition in court for consideration of a question of change of a type of institution.

5. In case of application of convicted person with a petition on change of the type of the institution, administration shall be obliged to direct it to the court within ten days with attachment of materials characterizing identity of convicted person, his (her) behavior, relation to labour and study for a time of serving a sentence, and personal case of the convicted person, as well as notify a prosecutor in written form on directing the mentioned petition.

6. In case of refusal of the court in change of the type of the institution, the repeated making of petition may have place no sooner than upon expiry of six months from the date of issuance of the court regulation.

7. Convicted person in respect of whom the court issued a regulation on return from the institution of minimum safety to the institution the type of which was previously determined by the court verdict, or institution of medium safety shall be detained in the institution of mixed safety until entering of the court regulation into legal force.

8. If the disciplinary sanction, which serves as the basis for the transfer of the convicted person from the institution in the order of parts three and 3-1 of this article, shall be canceled by the prosecutor or the court, the administration of the institution shall be obliged, and the convicted person shall have the right to apply to the court to consider the issue of changing the type of institution to an institution of the type of security from where he/she is transferred.

Footnote. Article 96 with the changes made by the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced after ten calendar days after day of its first official publication); № 180-VI dated 12.07.2018 (shall be enforced upon expiry of ten calendar days after its first official publication); № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure); dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication); dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication); dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication).

Chapter 17. SENTENCE SERVING REGIME IN THE INSTITUTIONS AND MEANS OF ITS ENSURING

Article 97. Main requirements of sentence serving regime

1. A regime for serving a sentence in institutions is the procedure for execution and serving of a sentence established by the criminal legislation of the Republic of Kazakhstan, ensuring the protection and isolation of convicts, constant supervision over them; the performance of duties assigned to them, the execution of their rights and legitimate interests; safety of convicts, personnel and medical workers; separate holding of certain categories of convicts, various conditions of detention, depending on the type of institution; changing the conditions for serving a sentence.

Footnote. Part one as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

2. Sentence serving regime shall create conditions ensuring reaching of purposes of executing the punishments.

3. Internal regulations of the institutions shall be in force in the institutions.

4. In all institutions, with the exception of minimum security institutions, convicts wear clothes of the prescribed form.

5. The list and quantity of things and subjects allowed to be carried by convicted persons shall be established by internal regulations of the institutions.

6. Convicted persons shall be prohibited to keep and use money and securities, as well as other subjects, documents, things, products, substances, food products not provided by the internal regulations of the institutions. In case of their detection, they shall be withdrawn by administration of the institution.

7. Keeping of money, securities, as well as subjects, documents, things, products, substances and food products acquired by convicted persons in the manner established by the Law shall be ensured by administration of the institution.

8. Border of a territory adjoining the institution, as well as regime of its use shall be established by local executive bodies of oblast, city of republican significance, the capital in coordination with its administration.

9. In the manner established by the legislation of the Republic of Kazakhstan, communications providers and networks owners shall be obliged to ensure:

1) consultative and technical assistance to internal affairs bodies upon installation of special technical equipment in the territory of institutions for blocking radio signals or detection and (or) suppression of unauthorized use of user terminals;

2) optimization of own communication networks including well-timed responsivity and taking measures for the purpose of reduction of signal propagation in the territory of the institutions.

10. Compliance with sentence serving regime and maintenance of legal order shall be ensured by servants of correctional system and forces and means being in their possession.

Footnote. Article 97 as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;); dated 19.04.2023 № 223-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 98. Performance of surveys and searches

1. Servants of the institution, persons authorized for carrying out of control and supervision of behavior of convicted persons shall perform survey of persons, their things, transport vehicles being in the territory of the institution and in territories adjoining to it, on which regime requirements are established, and shall withdraw subjects, documents, things, products, substances, food products not provided by the internal regulations of the institutions

2. According to statement of operative servants, the servants of the institutions and persons authorized for carrying out of control and supervision of behavior of convicted persons, shall perform search of persons that came to this institution.

Things of persons that came to convicted persons for a long appointment shall be subject to search.

3. In case of confirmation of the fact of an attempt for carrying the subjects, documents, things, products, substances, food products not provided by internal regulations of the institutions, the persons provided by the right of long appointment shall be removed, the appointment shall be terminated and considered used.

4. Persons that committed infractions mentioned in a part three of this Article entailing administrative responsibility shall be deprived of appointments with convicted persons for one year from the date of entering of court regulation into legal force.

Persons committed infractions mentioned in a part three of this Article entailing criminal responsibility shall not be provided by appointments with convicted persons from the date of entering of the court verdict into legal force.

5. Convicted persons, their things and clothes, as well as premises of the institution shall be subject to survey and search.

Personal search of convicted persons shall be conducted by persons of the same gender with convicted persons.

General search of convicted persons at a temperature of more than +10 C shall be conducted at the places of conducting inspections, and in their absence – at local fields in special separable cabins. At a temperature lower than +10 C, general search shall be conducted in the premises of the institution.

Search of housing units in existence of convicted persons in them shall be allowed in exigent cases.

6. Money, securities and other values detected at convicted persons, as well as in the territory of the institution the belonging of which is not possible to be established shall be withdrawn by administration in accordance with internal regulations of the institutions and shall be subject to conversion to the state revenue under the court regulation.

Subjects, documents, things, products, substances, food products as well as those detected in the territory of the institution and territories adjoining to it, in which regime requirements are established not provided by internal regulations of the institutions, shall be transferred to close relatives or for keeping under commission decision of administration of the institution or shall be destroyed under the regulation of a head of the institution about which the act shall be drawn up.

7. In cases provided by parts one, two, three and four of this Article, surveys and searches shall be conducted in the manner provided by the rules of organization of activity on carrying out of control and supervision of behavior of persons detained in the institutions, and performance of surveys and searches.

8. Upon detection of signs of a crime in progress or committed crime or administrative infraction in a result of conducting survey and search, the following survey and search shall be performed in the manner provided by the Code of the Republic of Kazakhstan on administrative infractions or the Criminal Procedure Code of the Republic of Kazakhstan respectively.

Article 99. Engineered technical means of supervision, control and protection

1. The administration of the institution shall use video surveillance systems, electronic and other engineering and technical means to prevent escapes, offenses, violations of the established order of serving the sentence, and to obtain the necessary information on the behavior of convicts.

2. Administration of the institution shall be obliged to notify convicted persons in written on applying engineered technical means of supervision, control and protection performing the function of protection at the same time, the violation of which may entail danger to life and health of convicted persons.

Footnote. Article 99 as amended by the Law of the Republic of Kazakhstan dated 16.05.2024 № 82-VIII (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 100. Operational search, investigative activities and secret investigative actions in institutions

1. According to the legislation of the Republic of Kazakhstan in institutions operational search, investigative activities and secret investigative actions which problems are carried out:

- 1) providing order and conditions of execution of punishments, safety of convicts, personnel of institutions and other individuals ;
- 2) prevention, identification, suppression of the criminal offenses and violations of an order of serving sentence preparing and committed in institutions;
- 3) search of the convicts who have made escape from institutions and also the convicts evading from serving sentence in the form of imprisonment;
- 4) assistance in identification and disclosure of the crimes committed by convicts before arrival in establishment;
- 5) prevention, opening and suppression of prospecting and (or) blasting actions.

2. Operational search, investigative activities and secret investigative actions are carried out by authorized services of institutions and also other authorized public authorities within their competence.

Footnote. Article 100 in edition of the Law of the Republic of Kazakhstan dated 28.12.2016 № 36-VI (shall be enforced after two months after day of its first official publication).

Article 101. Regime of special conditions

1. In cases of natural disaster, imposition of emergency, special or military situation in a district of dislocation of the institution, upon mass disorders, as well as group insubordination of convicted persons, the regime of special conditions may be imposed in the institution.

2. Regime of special conditions shall be imposed under decision of the chief executive officer of the authorized body in the scope of penal execution activity coordinated with the General Prosecutor of the Republic of Kazakhstan for a term up to thirty days.

In case of non-reaching the purposes of imposition of the regime of special conditions in established terms, time of its validation shall be extended by mentioned civil servants additionally for thirty days.

3. In case of occurrence of immediate threat to life and health of convicted persons, staff or other persons, a head of territorial body of correctional system shall have the right to impose measures provided by a part four of this Article in coordination with a head of the territorial internal affairs body and prosecutor of oblast or equated to it, on an independent basis with immediate notification of the chief executive officer of the authorized body in the scope of penal execution activity.

In this case, the chief executive officer of the authorized body in the scope of penal execution activity shall take decision within a day from the date of receiving the notification on imposition of regime of special conditions or on cancellation of imposed measures.

4. During the period of validation of the regime of special conditions and in case mentioned in a part three of this article, the exercise of rights of convicted persons provided by Articles 105-113 of this Code may be suspended in the institution, intense version of protection and supervision, special order for admission to objects may be imposed, the order of the day may be changed, the activity of productive, domestic, cultural and educational, medical and sanitary and other services may be restricted.

Article 102. Security measures and grounds for their applying

1. Physical force, special means and weapon shall be applied to convicted persons maintaining resistance to the staff of the institutions and persons authorized for carrying out of control and supervision of behavior of convicted persons, gross insubordination of their legal requirements, participating in mass disorders, taking of hostages, attack to other persons or committing other socially dangerous acts, as well as in case of breaking or detention of those escaped from the institutions for the purpose of suppression of mentioned unlawful acts and prevention of inflicting harm by them to surrounding or themselves.

The administration of the institution, no later than the next working day, shall notify the prosecutor of the application of security measures in writing.

2. Procedure for applying safety measures mentioned in a part one of this Article shall be determined by the Law.

Footnote. Article 102 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

Chapter 18. CONDITIONS OF SERVING A SENTENCE IN THE INSTITUTIONS. RIGHTS AND OBLIGATIONS OF CONVICTED PERSONS

Article 103. Conditions for service of sentence

1. Within the limits of one medium or maximum security institution, as well as in a medium security institution for the detention of minors, the convicted persons may be in normal, strict, facilitated and preferential conditions of serving their sentence.

2. In institutions of complete, emergency and minimal security, the convicted persons may be in normal, strict and facilitated conditions of serving their sentence.

3. Transfer of convicted persons from one condition to other shall be carried out under decision of commission of the institution, in a work of which participation may be taken by representatives of local executive bodies of oblast, city of republican significance, the capital, as well as community.

Footnote. Article 103 as amended by the Law of the Republic of Kazakhstan dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication).

Article 104. Rights and obligations of convicted persons

1. Together with rights established by Article 10 of this Code, in the manner provided by this Code and internal regulations of the institutions, the persons convicted to deprivation of freedom shall have the right to:

- 1) acquire, keep and use food products, subjects and things;
- 2) use a library, table games, musical instruments, periodical publications and literature made out at the expense of the funds being on controlled cash accounts of temporary money allocation in a time determined by the order of the day, as well as religious literature received a positive opinion of theological expertise;
- 3) enter into voluntary organizations of convicted persons;
- 4) maintain relations with a husband (wife), close relatives;
- 5) dispose of free time provided by order of the day;
- 6) access to related accounts, as well as to obtain official copies of such accounts.

Convicted persons shall have the other rights realization of which shall not be inconsistent with the purposes of punishment, procedure and conditions of executing and serving a sentence.

2. Together with obligations established by Article 11 of this Code, in the manner provided by this Code and internal regulations of the institutions, the persons convicted to deprivation of freedom shall be obliged to:

- 1) work at places and works determined by administration of the institution;
- 2) comply with uniform a sample of which shall be established by the Government of the Republic of Kazakhstan;
- 3) have tidy appearance;
- 4) take part in the events held in institutions, with the exception of persons held in the disciplinary isolator, in strict conditions of serving the sentence, in medical organizations located in institutions, as well as at work and study;

Footnote. Subparagraph 4) as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

5) perform works on provision of amenities of the institution and improvement of living conditions;

6) to visit the dining room for eating, except for those convicted of life imprisonment, the convicts, whose punishment in the form of a death penalty is replaced in the manner of a

pardon or in connection with the application of a law canceling the death penalty, the convicts held in cells located in medical organizations at the institutions;

Footnote. Subparagraph 6) as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

- 7) pull duty on prison cells, in probationary wards, disciplinary isolation wards, sections;
- 8) comply with sanitary hygiene standards;
- 9) comply with requirements of fire security and workplace safety.

3. In accordance with this Code and internal regulations of the institutions, convicted persons shall not have the right to:

1) maintain resistance to legal actions of staff of the institutions, to impede the execution of employment duties by them;

2) inflict harm to property of the institutions, other individuals or legal entities, including convicted persons, to create a threat of inflicting the harm to them;

3) inflict bodily damages to themselves, as well as with the aid of other person, to inflict harm to own health for the purpose of avoiding of serving a sentence or execution of established obligations;

4) refusal from food acceptance for the purpose of avoiding of serving a sentence or execution of established obligations;

5) elect and be elected in state bodies and local self-government bodies, to participate in republican referendum;

6) leave the territory of the institutions willfully, to violate a line of protection of the objects or borders of the territory of the institution, to go outside the limits of isolated fields of living and production areas without permission of administration of the institution, to go up to the roofs of buildings, production units, structures and other constructions in the territory of the institution, to come up to the fence of interior forbidden area;

7) move in the territory of the institutions, to be in premises and production objects in where they do not live and work;

8) leave work places, as well as premises designed for stay without notifying administration of the institution;

9) use equipment not for production needs, as well as by grinding, instruments, electric power, mechanisms and materials;

10) use Internet except for educational and cultural measures conducted under control of the administration;

11) to conduct telephone conversations with convicts held in institutions, with the exception of the spouse and close relatives, as well as persons who are not married to the convicted person who also have joint children with him/her;

- 12) transfer subjects, products and things being in personal use to other convicted person;
- 13) use alcohol, narcotic drugs, psychotropic or other doping substances;
- 14) play cards, as well as other games for the purpose of receiving material or other profit;
- 15) use expletives in communication, including specific lexis for informal community of convicted persons, assign nicknames, make tattoos to themselves and to other persons;
- 16) keep animals and be engaged in gardening without permission of commission of the institution;
- 17) change sleeping accommodations, as well as make sleeping accommodations at production objects, in domestic and other service and utility premises;
- 18) build up constructions at production and other objects of the institution, establish wardrobes and safes willfully;
- 19) close sight hole at the door of prison cell;
- 20) establish illegal relation with convicted persons being outside prison cell;
- 21) incite other convicted persons to violations of conditions and procedure for service of sentence.

4. Non-performance of requirements of this Article by convicted persons shall entail responsibility established by the Law.

Footnote. Article 104 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure); dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication); dated 30.12.2021 № 95-VII (the procedure for enactment, see Article 2).

Article 105. Acquisition of food products and prime necessities

1. Convicted persons shall have the right to acquire food products and prime necessities by bank transfer without restriction to money earned during the period of serving a sentence, or in account of received pensions and social benefits.

In case of absence of such convicted persons, with the exception of persons mentioned on a part three of this Article, the acquisition of food products and prime necessities shall be carried out in the manner established by this Code.

Convicted persons serving sentences on preferential terms shall have the right to purchase food and basic necessities by bank transfer without restriction at the expense of the funds available on the control accounts of cash for temporary placement of money or bank payment cards.

2. In case when acceptable sum of money is not disbursed in current month, convicted persons shall have the right to acquire food products and prime necessities for unexpended sum in the following months.

3. Pregnant women, women with children, as well as persons with disabilities and convicts held in medical and preventive institutions, have the right to purchase food and basic

necessities at the expense of funds available in cash control accounts for temporary placement of money, without restriction.

4. List and quantity of food products, as well as prime necessities permitted for sale to convicted persons shall be established by internal regulations of the institutions.

Footnote. Article 105 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure); dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 106. Appointments

1. Convicted persons shall be provided by appointments: short-term with a length of two hours, long-term with a length of two days in the territory of the institution.

Long-term appointments with accommodation outside the institution with a length up to five days shall be provided in the institutions of medium safety for detention of minor children.

Upon written applying of convicted person or person arrived at appointment, the length of appointment may be reduced.

2. Short-term appointments shall be provided with a husband (wife), close relatives or other persons in the presence of a representative of administration of the institution with a right to receive packages.

3. Long-term appointments shall be provided to convicted persons with a right of joint residing with a husband (wife), close relatives, with persons that are not married with convicted persons having common children with them and the right of receiving the packages, with the exception of those convicted persons suffering from infectious form of tuberculosis.

4. The first appointment shall be provided to convicted persons arrived at the institution after withdrawal from probationary ward.

The following appointments shall be provided in accordance with this Code and internal regulations of the institutions.

5. Upon request of convicted persons, they shall be allowed to substitute a long-term appointment by short-term appointment, and in the institutions of medium safety for detention of minor children, long-term appointment with accommodation outside the institution by short-term appointment with access to go outside the institution. It shall not be allowed to join or divide appointments.

6. For receipt of qualification legal assistance, convicted persons shall be provided by appointments with their attorneys for a defence upon their written or oral application, without limitation of their quantity, length and in conditions ensuring their confidentiality.

Article 107. Receipt and sending of parcels, packages and letter packets

1. Convicted persons shall have the right to receive parcels, packages and letter packets in the manner provided by this Code.

2. The convicted person has the right to receive medicines and medical devices in accordance with the medical opinion. After inspection, they are sent to a medical organization located in the institution for use in the treatment of the convict.

Footnote. Part two as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

3. Convicted persons shall have the right to send parcels and letter packets upon authorization of administration of the institution.

Footnote. Article 107 as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

Article 108. Correspondence, sending and receipt of money transfers

1. Convicted persons shall have the right to receive and send letters without limiting their number at the expense of the funds available on the control accounts of cash for temporary placement of money.

2. Correspondence sent and received by convicted persons shall be subject to control in the manner determined by the authorized body in the scope of penal execution activity.

3. Correspondence between convicted persons detained in the institutions that are not spouses or relatives shall be allowed upon authorization of administration of the institution.

4. Convicted persons held in institutions of full, emergency, maximum, average and mixed security shall have the right to receive money transfers no more than twice a month, while their total amount shall not exceed twenty monthly calculation indices.

Convicted persons shall have the right to send money transfers to a husband (wife), close relatives without restrictions at the expense of personal funds earned during the period of serving a sentence.

5. Convicted persons detained in the institutions of minimum safety shall have the right to receive and send money transfers without restrictions.

6. Additional services linked with applying all the non-cash methods of payment shall be reimbursed at the expense of personal funds of convicted person.

7. Letters received in the name of the convicted person after his/her leave from the institution, no later than three working days, shall be sent to the place of his/her sentence.

Footnote. Article 108 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

Article 109. Phone conversations

1. Convicted person shall have the right to phone conversations with a length of fifteen minutes for each in accordance with the internal regulations of the institutions.

Phone conversations shall be paid from personal funds of convicted persons or their husband (wife), close relatives.

Administration of the institution shall use available telecommunication facilities for maintenance of social relation of convicted person.

2. Convicted persons being in strict conditions of serving a sentence, as well as detained in disciplinary isolation ward or one-man prison cell in the manner of recovery shall have the right to phone conversation in cases of: death or serious disease of a husband (wife), close relative threatening the life of diseased person; natural disaster inflicted significant material damage to his (her) family, or other exceptional personal circumstances.

Article 110. Acquisition and keep of writing materials, literature, periodical publications

1. Convicted person shall have the right to receive writing materials in letter packets, to acquire literature through trade network, as well as subscribe to newspapers and magazines without restriction at the expense of funds placed on controlled cash accounts of temporary money allocation.

2. Convicted persons shall be prohibited to receive, acquire, subscribe, keep and distribute publications containing propaganda or agitation of forcible change of constitutional order, violation of integrity of the Republic of Kazakhstan, erosion of state security, war, social, racial, national, religious, class and generic superiority, cult of cruelty and violence, as well as pornographic content.

3. Letter packets with literature acquired through the trade market shall not be included in quantity of parcels and letter packets which the convicted person shall have the right to receive.

4. Keep of writing materials, literature as well as newspapers and magazines shall be carried out in accordance with the internal regulations of the institutions.

Article 111. Walks

1. Convicted persons serving a sentence in prison cells, as well as placed in disciplinary isolation ward and transferred to one-man prison cells in the manner of recovery shall have the right to daily walk in the manner established by this Code.

2. Walk of convicted persons shall be carried out in the daytime in a special equipped part of the territory of the institution.

3. In case of violation of internal regulations of the institutions by convicted persons, walk shall be terminated in advance.

Article 112. Listening of radio broadcast and viewing of television broadcast

1. Convicted persons shall have the right to listening of radio broadcast in a time free from work and compulsory mass measures, except for the time provided by order of the day of the institution for sleeping.

2. Convicted persons with the exception of those placed in disciplinary isolation wards and transferred to one-man prison cells in the manner of recovery shall have the right to review television broadcast in a time free from work and compulsory mass measures, except for the time provided by order of the day for the institution for sleeping.

Article 113. Departure beyond the borders of the institution

1. Convicted persons detained in the institutions, as well as those left in the institution of mixed safety and directed to the institution of full safety for performance of works on economic service shall have the rights to departures beyond the borders of institutions:

1) short-term – for a term of no more than seven days without considering a time required for a travel in both ways (no more than five days) due to death or serious diseases of a husband (wife), close relative, threatening life of diseased person, natural disaster inflicted significant material damage to his (her) family;

2) long-term – for a period of annual paid leave in the institution of minimum safety.

2. Convicted women having children in children's homes of the institutions shall have the right to short-term departure beyond the borders of the institution for arrangement of children at husband, close relatives or children's home.

Convicted women who have minor children with disabilities outside the institution have the right to one short-term visit per year to see them.

3. Departures on the grounds mentioned in pars one and two of this Article shall not be provided to convicted persons:

1) committed crimes upon dangerous repetition;

2) whose punishment in the form of a death penalty was replaced in the manner of pardon by deprivation of liberty or in connection with the application of the law canceling the death penalty;

3) to life deprivation of freedom;

4) a recognized person with a mental, behavioral disorder (disease) that does not exclude sanity, as well as who has not completed treatment for tuberculosis, infection, mental, behavioral disorder (disease) associated with the use of psychoactive substances;

5) for terrorist, extremist crimes or for crimes committed in a composition of criminal group, as well as for crimes against sexual immunity of infants;

6) having the second or third negative grade of behavior.

4. Convicts with disabilities of the first or second category who need constant care for health reasons, as well as minor convicts, are allowed to leave the institution accompanied by a spouse, relative or other accompanying person.

5. Application of convicted person on departure shall be considered in a daily term. Permission for departure shall be given by a head of the institution or a person substituting him (her) considering the requirements provided by a part three of this Article and behavior of convicted person.

6. Time for being of convicted person outside the borders of the institution shall be reckoned in the term of serving a sentence.

7. Expenses of convicted person for departure beyond the borders of the institution shall be paid by him (her) from the funds placed on the controlled cash account of temporary money allocation or by other persons.

8. In case of occurrence of unforeseen circumstances impeding reverse travel of convicted person in established term under substantiated resolution of a head of internal affairs body at the place of stay of convicted person, the term of return to the institution shall be prolonged up to five days with immediate notification of administration of the institution.

9. Upon non-return of convicted person in term, administration of the institution shall carry out search in the manner established by the legislation of the Republic of Kazakhstan.

Footnote. Article 113 as amended by the Law of the Republic of Kazakhstan dated 07.07.2020 № 361-VI (shall be enforced six months after the date of entry into force of this Law); dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication); dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 114. Compulsory social insurance, social, pension benefits

1. Convicted persons engaged in labour shall be subject to compulsory social insurance in accordance with the legislation of the Republic of Kazakhstan.

2. Convicted women are provided with social benefits in case of loss of income due to pregnancy and childbirth in accordance with the Social Code of the Republic of Kazakhstan.

3. Convicted persons have the right to social and pension provision in accordance with the legislation of the Republic of Kazakhstan on social protection.

4. In respect of convicted persons serving deprivation of freedom in the institutions, the validity of voluntary medical insurance shall be suspended until the end of term for serving.

Footnote. Article 114 as amended by Law of the Republic of Kazakhstan dated 26.12.2019 № 287-VI (shall be enforced from 01.01.2020); dated 20.04.2023 № 226-VII (shall be enforced from 01.07.2023).

Article 115. Material support

1. Norm of dwelling space in calculation for one convicted person in the institutions may not be less than two and half square metres, than three square metres in the institutions designed for detention of women, and three and half square metres for minor children.

2. Proceeding from factual existence of dwelling place in common housing units, rooms and prison cells designed for permanent residence of convicted persons, in accordance with norms established by part one of this Article, a limit of the places for serving a sentence shall be determined.

Limit of the places for serving a sentence for each institution shall be established by the authorized body in the scope of penal execution activity and shall be changed upon putting into operation of new and reconstruction of existing housing units designed for permanent residence of convicted persons.

3. Convicted persons shall be provided by individual sleeping accommodation and bedding items.

Convicted persons shall be provided by food, prime necessities, seasonable clothes, underwear and footwear considering gender and climatic conditions at the expense of budget funds.

4. At the expense of funds of enterprises involving convicted persons to labour, they may be provided by subsidiary feed over established norms.

Convicted persons shall have the right to acquire additionally footwear and clothes including sport footwear and clothes permitted for use in the institutions; receive necessary dietetic food according to medical evidence; pay medical preventive and other additional services determined by regulatory legal acts provided at their will from the funds placed on controlled cash accounts of temporary money allocation over the sum of money established by this Code, permissible for expenditure of food products and prime necessities.

5. Pregnant women, nursing mothers, minors, as well as patients and persons with disabilities are provided with improved living conditions and the increased nutrition standards are established.

6. Buildings and premises where convicts with disabilities are held are equipped with special technical means and devices.

Footnote. Article 115 as amended by the Law of the Republic of Kazakhstan dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 116. Special aspects of material support of convicted pregnant women, nursing mothers and women having children

1. Children's houses may be organized in the institutions in which convicted women having children serve a sentence.

In the children's homes of institutions, the conditions necessary for the normal living and development of children are provided in accordance with the State mandatory standard of education for preschool education and training. The organization of preschool education and training is provided by the local executive body.

Convicted women shall place their children at the age up to three years to the children's houses of the institutions and shall communicate with them in time free from work without limitation. They shall be allowed to joint residence with children.

2. With the written consent of the convicted women, the child (children) is transferred (are transferred) to their spouses, relatives or, by court decision, to other persons, or when the child (children) reaches the age of three, they are sent (transferred) to the appropriate children's institutions.

At the request of the convicted woman to the administration of the institution, the child (children) may (may) stay with the convicted woman until they reach the age of four in cases where there is less than one year left before:

release after serving the sentence;

the onset of the convicted person's right to file a petition for parole, replacement of the unserved part of the sentence with a milder type of punishment.

3. Convicted pregnant women and nursing mothers may receive food parcels and packages in a quantity and in assortment determined by medical certificate. Convicted pregnant women, women during childbirth and puerperal period shall have the right to specialized medical care.

4. In children's houses of the institutions, children shall be provided by food, prime necessities, individual sleeping accommodation, bedding items, seasonable clothes, underwear and footwear considering gender and climatic conditions at the expense of budget funds.

Footnote. Article 116 as amended by the Law of the Republic of Kazakhstan dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication).

Article 117. Medical sanitary ensuring

1. Medical aid to convicted persons shall be provided in accordance with the legislation of the Republic of Kazakhstan in the field of public health service.

2. In the criminal-executive system for provision of medical care in outpatient, hospital-replacing, and inpatient conditions, medical organizations (somatic, psychiatric and anti-Tuberculosis hospitals (departments), an organization providing outpatient assistance) are organized for the convicts. Forced treatment of convicts with mental, behavioral disorders (diseases) associated with the use of psychoactive substances is carried out by a medical organization located in the institution.

Footnote. Part two as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

3. Administration of the institution shall bear responsibility for performance of sanitary hygiene and antiepidemic requirements established by the legislation of the Republic of Kazakhstan.

3-1. The administration of the institution provides premises for medical care for convicts and provides the proper functioning of these premises.

Footnote. Article 117 is supplemented by paragraph 3-1 in accordance with the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, from January 1 2023 - in relation to persons contained in institutions of the criminal -executive (penitentiary) system;).

4. Organization of anti-TB assistance, state control and supervision in the field of sanitary and epidemiological well-being of the population in institutions and a medical examination of convicts recommended for release from serving a sentence in connection with the disease, are carried out in accordance with the legislation of the Republic of Kazakhstan.

Footnote. Part four as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

5. In case of death of a person serving a sentence, administration of the institution shall inform a prosecutor, husband (wife) or close relatives in written form about this without delay , and in case of death of foreign person or stateless person – additionally to the Ministry of Foreign Affairs of the Republic of Kazakhstan.

Footnote. Article 117 as amended by the Law of the Republic of Kazakhstan dated 07.07.2020 № 361-VI (shall be enforced ten calendar days after the day of its first official publication); dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in the institutions of criminal-executive (penitentiary) system;).

Article 118. Material responsibility

1. In case of infliction of material damage to the state, institution, individuals or legal entities during service of sentence, convicted persons shall bear material responsibility in the manner established by the Law.

2. Convicted person shall compensate for damage inflicted to the state, institution, additional expenses linked with suppression of his (her) breaking, as well as his (her) treatment in case of intentional infliction of damage to his (her) health in cases provided by subparagraph 2) of a part two of Article 130 of this Code.

Chapter 19. LABOUR, TECHNICAL AND PROFESSIONAL EDUCATION OF PERSONS CONVICTED TO DEPRIVATION OF FREEDOM

Article 119. Involvement to labour

1. Administration of the institutions shall employ convicted persons in enterprises of correctional system, provide assistance in employment in organizations located in the territory of the institutions or beyond their borders upon ensuring of protection and isolation for them.

Administration of the institutions shall take measures on creation of work positions for involvement of all ablebodied convicted persons to paid works.

2. Upon employment of convicted persons administration shall be obliged to consider their gender, age, health condition, earning capacity, as far as possible – specialty and its obtainment during service of sentence.

3. Involvement of convicted persons to labour at objects of organizations not included to correctional system shall be carried out on the basis of agreements between administration of the institutions, organization and convicted person.

4. Convicted persons shall have the right to engage in individual labour activity in the territory of the institutions.

5. Involvement of convicted persons to labour in conditions of prison cell detention shall be carried out in accordance with Article 149 of this Code.

6. List of works and positions in which use of convicted persons is prohibited shall be established by internal regulations of the institutions.

7. Use of labour of freelance engineered and technical employees and qualified workers within up to fifteen percent from among working convicted persons shall be allowed in organizations of the institutions.

8. Convicted persons shall be prohibited to terminate work for the purpose of resolution of labour conflict. Individual labour disputes shall be resolved in the manner established by labour legislation of the Republic of Kazakhstan.

9. Transfer of production objects located in the territory of the institutions, organizations of other forms of ownership for organization of work positions of convicted persons shall be carried out in accordance with the legislation of the Republic of Kazakhstan on state property.

10. In the event of collective labor disputes, emergency situations and incidents at work facilities, the administration of the institution shall notify the territorial division of the authorized state body for labor and the prosecutor in writing no later than the next working day.

The territorial division of the authorized state body for labor and the prosecutor, having received such notification, shall take measures in accordance with the legislation of the Republic of Kazakhstan.

Footnote. Article 119 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019; dated 08.07.2024 № 116-VIII (comes into force ten calendar days after the date of its first official publication).

Article 120. Labour conditions and its payment

1. Labour conditions of convicted persons shall be determined by labour legislation of the Republic of Kazakhstan.

2. Payment for labour of convicted persons shall be carried out in accordance with the legislation of the Republic of Kazakhstan and may not be less than established minimal amount of salary.

Article 121. Involvement to works on provision of public amenities of the institution and improvement of living conditions

1. Persons convicted in order of priority shall be involved to unpaid works out of hours with a length no more than two hours per week:

- 1) on provision of public amenities of prison cells, rooms and premises of common use;
- 2) on provision of public amenities of territory of the institution and adjoining to it, with the exception of objects of engineered technical means of supervision, control and protection located on main fence and outside internal forbidden zone;
- 3) on improvement of cultural and sanitary hygiene living conditions.

2. Refusal of convicts, with the exception of those located in medical organizations located in institutions, to receive medical care in stationary conditions, from performance of work specified in part one of this article, entails the application of the penalty provided for by this Code.

Footnote. Part two as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

Footnote. Article 121 as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

Article 122. Retentions from salary, pension, benefits and other incomes

Retentions from salary, pension, benefits and other incomes of convicted persons, sums on orders of enforcement or other enforcement documents shall be made in the manner provided by the legislation of the Republic of Kazakhstan, but no more than fifty percent from total sum of mentioned incomes. The sum remained after retentions shall be enlisted on controlled cash account of temporary money allocation.

Article 123. Technical and professional education

1. Technical and professional education of convicted persons shall be carried out in the institutions.

2. The list of professions and specialties for organization of technical and professional education of convicted persons shall be formed by administration of the institution in coordination with local executive bodies in recognition of monitoring of labour market.

3. Organization of technical and professional education shall be carried out in accordance with the rules approved by authorized body in the scope of penal execution activity in coordination with authorized body in the field of education.

Chapter 20. EDUCATIONAL IMPACT ON PERSONS CONVICTED TO DEPRIVATION OF FREEDOM

Article 124. Educational work

1. Educational work with convicted persons is oriented to their correction, formation and strengthening of tendency to complying with requirements of the Laws, labour and engagement in other socially useful activity, increase of educational and cultural level, participation in programs oriented to social legal assistance to convicted persons.

2. Moral, social legal, labour, physical and other types of education shall be carried out in the institutions in accordance with rules approved by the authorized body in the scope of penal execution activity.

3. Educational work with convicted persons shall be organized on a case-by-case basis considering the type of correctional institution, term of punishment, conditions of detention. It shall be carried out in individual, group and mass forms with applying pedagogical and pedagogical methods.

Educational work with each convicted person shall be conducted in recognition of individual special aspects of his (her) identity and circumstances of the crime committed by him (her).

4. Participation of convicted persons in educational measures shall be considered upon applying incentives and recovery measures to them, as well as assessment of their behavior.

Article 125. Work on social adaptation and psychological assistance

1. Administration of the institutions shall conduct work on social adaptation and psychological work with convicted persons on an individual basis in accordance with their needs.

2. Work on social adaptation of convicted persons shall be carried out in the following forms:

- 1) development of individual programs on work with convicted persons;
- 2) development, organization and realization of programs oriented to social legal assistance to convicted persons;
- 3) involvement of state bodies, local executive bodies and community to social legal assistance to convicted persons;
- 4) assistance for strengthening of positive social relations of convicted persons;
- 5) rendering of assistance to released persons in accordance with chapter 27 of this Code.

3. For the purpose of correction of convicted persons, administration of the institution shall assist in his (her) restoration in a social status of full member of society, his (her) return to independent life in society on the basis of the rules of law and generally accepted norms of behavior (resocialization).

4. A psychologist that conducts a diagnostic of individual and psychological special aspects of personality of each convicted person and assists psychological aid to convicted persons in adaptation for conditions of isolation, social environment and regime of detention, optimization of interpersonal relations, as well as in preparation to release shall be involved for conduct of educational work with convicted persons.

Article 126. Voluntary organizations of convicted persons

1. For the purpose of assistance in correction of convicted persons in the institutions, the organizations of convicted persons working under control of administration of the institution shall be created on a voluntary basis.

Boards of the groups of the institutions and sections shall be created from among the convicted persons that positively recommended themselves.

2. Main tasks of voluntary organizations of convicted persons are:
- 1) formation of positive moral and psychological climate in the institution;
 - 2) development of positive social relations of convicted persons;
 - 3) maintenance of initiative of convicted persons that is valuable to the community;
 - 4) rendering of assistance to convicted persons in a moral, professional and physical development;
 - 5) assistance in organization of labour, life and leisure time of convicted persons.
3. Participation in work of voluntary organizations shall be considered upon determination of a degree of behavior and drawing up the characteristics of convicted persons.
4. Members of voluntary organizations of convicted persons shall not enjoy additional benefits, privileges and may not have the powers of administration of the institution.

Article 127. Organization of obtaining basic, basic secondary, general secondary education

1. Compulsory obtainment of basic, basic secondary, general secondary education shall be organized in the institutions for convicted persons that did not attain thirty years.

2. Convicts over thirty years of age and convicts with disabilities receive primary, basic secondary, general secondary education at their request.

3. Studying persons shall be released from work for passing exams in accordance with labour legislation of the Republic of Kazakhstan.

4. To ensure law and order, for convicts serving life imprisonment, who are in medical and preventive institutions, disciplinary isolation wards, solitary confinement cells, temporary isolation rooms, as well as those transferred to mixed security institutions, conditions shall be provided by the institutions for independent obtaining of primary, basic secondary, general secondary education.

5. The desire to obtain primary, basic secondary, general secondary, post-secondary, higher and postgraduate education shall be encouraged and taken into account in determining the degree of behavior and drawing up characteristics of convicts.

Footnote. Article 127 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019; dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication).

Chapter 21. APPLICATION OF INCENTIVES AND RECOVERY MEASURES TO PERSONS CONVICTED TO DEPRIVATION OF FREEDOM

Article 128. Incentives

1. For good behavior, fair relation to labour, study, active participation in work of voluntary organizations and educational events, taking measures on compensation for damage , inflicted by the crime, the following incentives shall be applied to convicted persons:

- 1) expression of gratitude;
- 2) awarding by gift;
- 3) bonus payment;
- 4) provision of additional short-term appointment;

5) permission for additional expenditure of money in a sum of up to one monthly calculation index for purchase of food products and prime necessities in public holidays;

- 6) advanced remove of previously imposed recovery.

2. Spending non-working days and public holidays beyond the borders of the institution from nine to eighteen hours shall be allowed to convicted persons serving a sentence in the institution of minimum safety besides the incentives mentioned in a part one of this Article.

Article 129. Procedure for applying incentives

1. The encouragement provided by subparagraphs 1) – 5) part one of article 128 of the present Code, is applied to the convicts who do not have assessment of behavior or having the first, second or third positive degrees of behavior, and subparagraph 6) – to the convicts having the first or second negative degrees of behavior in the order determined by a part of the third present article.

2. Receipt of up to four additional short-term appointments per year in the manner of incentives shall be allowed to convicted persons having the second or third positive grades of behavior.

3. Advanced removal of previously imposed recovery shall be allowed no earlier than three months from the date of its imposition for violation of established order of serving a sentence. Advanced removal of recovery for gross violation of established order of serving a sentence shall not be allowed.

4. Incentive shall be applied by substantiated resolution of a civil servant of the institution

Footnote. Article 129 with the change made by the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced after ten calendar days after day of its first official publication).

Article 130. Violation of established order of serving a sentence

1. Violation of established order of serving a sentence is non-performance of requirements established by this Code and internal regulations of the institutions.

2. Gross violations of established order of serving a sentence are:

1) refusal from works on provision of public amenities of the institution and improvement of living conditions;

2) threat to representatives of administration of the institution, their insult, insubordination, as well as linked with intentional infliction of any damage to themselves for the purpose of violation of regime of serving a sentence;

3) transfer (receipt), production, storage of subjects, documents, things, products, substances, food products not provided by internal regulations of the institutions;

4) avoidance from mandatory and compulsory treatment imposed by court;

5) refusal from the paid work provided by administration of the institution in accordance with Article 119 of this Code;

6) unauthorized leaving of territories of the institution of minimum safety and work object ;

7) non-return of convicted person to the institution in established term to whom the short-term departure beyond its borders is allowed, with the exception of cases provided by a part eight of Article 113 of this Code;

8) consumption of alcohol, narcotic drugs, psychotropic or other doping substances;

9) playing cards, as well as other games for the purpose of material or other profit;

10) commission of sexual actions;

11) petty crime;

12) organization or active participation of convicted persons in groups oriented to commission of crimes mentioned in subparagraphs 1) – 11) of this part;

13) repeated kindred violation of established order of serving a sentence for which convicted person was subject to recovery within six months in the form of placement in disciplinary isolation ward or transfer to one-man prison cell.

3. Convicted person to whom recovery measure is applied shall be recognized as a violator of established order of serving a sentence.

Convicted person to whom recovery measures are applied within six months two times and more shall be recognized as systematic violator of established order of serving a sentence with the exception of placement into disciplinary isolation ward or transfer to one-man prison cell.

Convicted person committed the violations mentioned in a part two of this Article, in condition of imposition of recovery on him (her) in the form of placement into disciplinary isolation ward or transfer to one-man prison cell shall be recognized as a gross violator of the established order of serving a sentence.

4. Recovery shall be imposed by a substantiated regulation of a civil servant of the institution.

Article 131. Recovery measures

1. The following recovery measures shall be applied for violation of established order of serving a sentence to convicted persons:

1) admonition;

2) reprimand;

3) is excluded by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure);

4) placement into disciplinary isolation ward for the term of up to fifteen days;

5) transfer to solitary confinement for up to four months.

2. Recoveries in the form of revocation of the right of residing outside a hall of residence and prohibition of leaving beyond the territory of the institution in a time free from work shall be applied to convicted persons serving a sentence in the institution of minimum safety for the term of up to thirty days.

3. A copy of the decision on the application of a penalty against the convicted person shall be sent to the prosecutor not later than the next working day.

Footnote. Article 131 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

Article 132. Procedure for applying recovery measures

1. Upon applying the recovery measures to convicted persons, the circumstances of committing the violation, personality and previous behavior shall be considered.

2. Recovery being subject to imposition shall correspond to gravity and nature of offence.

3. Recovery that is imposed by substantiated regulation of a civil servant of the institution no later than ten days from the date of detection of offence, and if inspection was conducted – from the date of its termination, but no later than three months from the date of commission of offence.

The term of detention in a disciplinary isolation ward and solitary confinement cell shall be calculated from the date of actual placement in the indicated premises.

4. Recovery shall be executed immediately, and in cases of disease of convicted person, his (her) prison transfer or absence of conditions for its execution – no later than one month from the date of imposition.

5. Imposition of several recoveries for one violation shall be prohibited.

6. Is excluded by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

7. Transfer of convicted person to one-man prison cell, his (her) placement into disciplinary isolation ward shall be carried out after medical certification in order to possibility of detention in there with specification of term of recovery.

The application of a penalty in the form of transfer to a solitary confinement cell shall be allowed only in relation to a convicted person who has a penalty in the form of placement in a disciplinary cell for a previous violation of the established procedure for serving a sentence.

8. Women having nursing infants in children's houses of the institution, as well as women released from work due to pregnancy and childbirth, and minor children shall not be transferred to one-man prison cell and be placed into disciplinary isolation ward.

9. All the recovery measures provided by this Code shall be applied to convicted persons placed into disciplinary isolation ward and transferred to one-man prison cells.

10. If convicted person is not subject to new recovery within six months from the date of serving disciplinary recovery, he (she) shall be considered as not having the recovery, and the person recognized as gross violator of established order of serving a sentence – as not as thereof.

Footnote. Article 132 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

Article 133. Civil servants of the institutions applying the incentives and recovery measures

1. Heads of the institutions or persons fulfilling their obligations shall have the right to apply incentives and recovery measures provided by this Code to the full extent.

2. Deputies of a head of the institution shall have the right to apply the following incentives:

- 1) express gratitude;
 - 2) allow additional spending of money for a purchase of food products and prime necessities;
 - 3) remove recoveries in advance, previously imposed by a deputy of a head of the institution on a minor child.
3. Deputies of a head of the institution shall have the right to impose the following recovery measures:
- 1) admonition;
 - 2) reprimand.

Article 134. Conditions of detention in disciplinary isolation wards and one-cell prison cells

1. Convicted persons placed into disciplinary isolation ward shall be:
 - 1) allowed to daily walk with a length of one hour;
 - 2) prohibited for appointments, phone conversations, acquisition of food products and prime necessities, smoking in a prison cell, as well as use of sleeping accommodation in daily time.
2. Convicted persons transferred to one-man prison cells in the manner of recovery shall have the right to:
 - 1) spend funds for acquisition of food products and prime necessities on a monthly basis earned during the period of serving a sentence in amount of four monthly calculation indices;
 - 2) enjoy daily walk with a length of one and half hours.
3. Convicted persons placed into disciplinary isolation wards or transferred to one-man prison cells shall work separately from other convicted persons.
4. In the event of a transfer of convicts from disciplinary insulators or single cells to a medical organization located in institutions, as well as a different medical healthcare organization, the period of their stay in them is included in the term of serving the punishment

Footnote. Part four as worded by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary) system;).

5. Cells in disciplinary isolators and solitary cells intended for detention of convicts with disabilities shall be equipped with special technical means.

Footnote. Article 134 as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons contained in the pre-trial facilities of the criminal-executive (penitentiary) system; from January 1, 2023 - in relation to persons contained in institutions of the criminal-executive (penitentiary)

system;); dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication).

Chapter 22. SPECIAL ASPECTS OF THE EXECUTION OF PUNISHMENT IN THE INSTITUTIONS OF DIFFERENT TYPES

Article 135. Institutions of medium safety

1. Convicted persons newly arrived at the institution of medium safety, as well as convicted persons transferred from strict and light conditions of serving a sentence shall serve the sentence in usual conditions in the institution of medium safety.

2. Upon serving no less than six months of the term of punishment, convicted persons having the first positive grade of behavior shall be transferred from usual to light conditions of serving a sentence upon faith relation to labour.

3. Convicted persons having the third positive grade of behavior being no less than three months in light conditions shall be transferred to preferential conditions the year before release on serving the term.

4. Convicted persons serving a sentence in usual, light and preferential conditions recognized as gross violators of established order of serving a sentence shall be transferred to the strict conditions.

Convicted persons serving a sentence in light or preferential conditions, recognized as violators of established order of serving a sentence shall be transferred to usual conditions.

5. Transfer from strict conditions of serving a sentence to usual shall be carried out no earlier than after six months in the absence of recoveries for violations of established order of serving a sentence.

6. Repeated transfer from strict conditions of serving a sentence to usual conditions or from usual conditions to light and preferential conditions shall be carried out in the manner determined by parts two, three and five of this Article.

7. Convicted persons transferred from other institution of medium safety shall serve a sentence in the same conditions that were determined for them before the transfer.

Article 136. Conditions of serving a sentence in the institutions of medium safety

1. Convicted persons serving a sentence in usual conditions shall reside in halls of residence or prison cells.

They shall have the right to:

1) spend funds placed on controlled cash accounts of temporary money allocation on a monthly basis for acquisition of food products and prime necessities in amount up to six monthly calculation indices;

2) receive six parcels or packages and six letter packets within year;

3) have six short-term and two long-term appointments within year.

2. Convicted persons serving a sentence in light conditions shall reside in halls of residence or prison cells.

They shall have the right to:

1) spend funds placed on controlled cash accounts of temporary money allocation on a monthly basis for acquisition of food products and prime necessities in amount up to twenty monthly calculation indices;

2) receive twelve parcels or packages and twelve letter packets within year;

3) have six short-term and six long-term appointments within year.

3. Convicted persons serving a sentence in preferential conditions shall be allowed to reside and move beyond the borders of protected perimeter without restraint but within the borders of territory adjoining to the institution under twenty-four-hour control and supervision under the regulation of a head of the institution.

They shall have the right to:

1) six long-term appointments within year;

2) short-term appointments without limitation of their quantity.

4. Convicted persons serving a sentence in strict conditions shall reside in prison cells.

They shall have the right to:

1) spend funds placed on controlled cash accounts of temporary money allocation on a monthly basis for acquisition of food products and prime necessities in amount up to two monthly calculation indices;

2) receive three parcels or packages and three letter packets within year;

3) three short-term appointments within year.

4) to use of daily walk by duration of an hour and a half.

Footnote. Article 136 with the change made by the Law of the Republic of Kazakhstan from 03.07.2017 № 84-VI (shall be enforced after ten calendar days after day of its first official publication).

Article 137. Institutions of maximum safety

1. Convicted persons newly arrived at the institution of maximum safety, as well as convicted persons transferred from strict and light conditions of serving a sentence shall serve the sentence in usual conditions in the institutions of maximum safety.

2. Upon serving no less than nine months of the term of punishment in usual conditions upon faith relation to labour, convicted persons having the first positive grade of behavior shall be transferred to light conditions.

3. Convicted persons having the third positive grade of behavior being no less than three months in light conditions shall be transferred to preferential conditions the nine months before release on serving the term.

4. Convicted persons serving a sentence in usual, light and preferential conditions, recognized as gross violators of established order of serving a sentence shall be transferred to

strict conditions. Convicted persons serving a sentence in light and preferential conditions, recognized as violators of established order of serving a sentence shall be transferred to usual conditions.

5. Transfer from strict conditions of serving a sentence to usual shall be carried out no earlier than nine months in the absence of recoveries for violations of established order of serving a sentence.

6. Repeated transfer from strict conditions of serving a sentence to usual conditions or from usual conditions to light and preferential conditions shall be carried out in the manner determined by parts two, three and five of this Article.

7. Convicted persons transferred from other institution of maximum safety shall serve a sentence in the same conditions that were determined for them before the transfer.

Article 138. Conditions of serving a sentence in the institutions of maximum safety

1. Convicted persons serving a sentence in usual conditions shall reside in halls of residence or prison cells.

They shall have the right to:

1) spend funds placed on controlled cash accounts of temporary money allocation on a monthly basis for acquisition of food products and prime necessities in amount up to five monthly calculation indices;

2) receive four parcels or packages and four letter packets within year;

3) have four short-term and one long-term appointment within year.

2. Convicted persons serving a sentence in light conditions shall reside in halls of residence or prison cells.

They shall have the right to:

1) spend funds placed on the controlled cash accounts of temporary money allocation on a monthly basis for acquisition of food products and prime necessities in amount up to ten monthly calculation indices;

2) receive six parcels or packages and six letter packets within year;

3) have four short-term and four long-term appointments within year.

3. Convicted persons serving a sentence in preferential conditions shall have the right to reside and move beyond the borders of protected perimeter without restraint but within the borders of territory adjoining to the institution under twenty-four-hour control and supervision under the regulation of a head of the institution.

They shall have the right to have:

1) four long-term appointments within year;

2) short-term appointments without limitation of their quantity.

4. Convicted persons serving a sentence in strict conditions shall reside in prison cells.

They shall have the right to:

1) spend funds placed on controlled cash accounts of temporary money allocation on a monthly basis for acquisition of food products and prime necessities in amount up to two monthly calculation indices;

2) receive two parcels or packages and two letter packets within year;

3) have three short-term appointments within year;

4) enjoy daily walk with a length of one and half hours.

Article 139. Emergency security institutions

1. Persons sentenced to life imprisonment, as well as convicts to whom the death penalty has been commuted to life imprisonment by way of pardon or in connection with the application of the law abolishing the death penalty, shall be placed in cells.

Educational work with convicts is organized taking into account the requirements of detention in cells.

2. Upon arrival at the institutions of emergency security for the detention of persons sentenced to life imprisonment, all convicted persons shall be placed in the usual conditions of serving their sentence.

3. Convicted persons who are recognized as malicious violators of the established procedure for serving a sentence and serving a sentence in normal and facilitated conditions are transferred to strict conditions of serving a sentence.

Convicted persons serving sentences in facilitated conditions, recognized as violators of the established procedure for serving sentences, are transferred to normal conditions.

4. The transfer from strict conditions of serving a sentence to normal ones is carried out no earlier than five years in the absence of punishments for violations of the established procedure for serving a sentence.

The transfer from the normal conditions of serving a sentence to the facilitated ones is carried out no earlier than five years after the presence of the first positive degree of behavior.

5. Re-transfer from strict conditions of serving a sentence to normal, from normal to facilitated, is carried out in the manner determined by part four of this article.

Footnote. Article 139 - as amended by the Law of the Republic of Kazakhstan dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication).

Article 140. Conditions for serving sentences in emergency security institutions

1. Convicts have the right to a daily walk for a duration of:

1) in strict conditions of serving a sentence – one hour;

2) in normal conditions of serving a sentence – an hour and a half;

3) in facilitated conditions of serving a sentence – two hours.

2. Convicts serving their sentences under normal conditions live in cells.

They have the right to:

1) spend monthly for the purchase of food and basic necessities the funds available on the control cash accounts of temporary placement of money in the amount of up to five monthly calculation indices;

2) receive three deliveries or transfers and three parcels during the year;

3) have three short-term dates and one long-term date during the year.

3. Convicts serving sentences in facilitated conditions live in cells.

They have the right to:

1) spend monthly for the purchase of food and basic necessities the funds available on the control cash accounts of temporary placement of money in the amount of up to seven monthly calculation indices;

2) receive four deliveries or transfers and four parcels during the year;

3) have three short-term and two long-term dates during the year.

4. Convicts serving sentences in strict conditions live in cells.

They have the right to:

1) spend monthly for the purchase of food and basic necessities the funds available on the control cash accounts of temporary placement of money in the amount of up to two monthly calculation indices;

2) receive one delivery or transfer and one parcel within a year;

3) have two short-term dates during the year.

Footnote. Article 140 - as amended by the Law of the Republic of Kazakhstan dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication).

Article 141. Conditions of serving a sentence in the institutions of emergency safety for convicted persons serving life deprivation of freedom

Footnote. Article 141 is excluded by the Law of the Republic of Kazakhstan dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication).

Article 142. Institutions of minimum safety

1. Institutions of minimum safety shall be divided into the institutions for detention of:

1) convicted persons specified in paragraph 1) of part five of Article 46 of the Criminal Code of the Republic of Kazakhstan, with the exception of persons who previously served imprisonment for committing intentional crimes;

2) convicted persons transferred in accordance with the procedure provided for in subparagraph 2) of part one of Article 96 of this Code; convicted persons specified in paragraph 1) of part five of Article 46 of the Criminal Code of the Republic of Kazakhstan who previously served imprisonment for committing intentional crimes.

2. Persons convicted to deprivation of freedom shall serve a sentence in strict, usual and light conditions in the institutions of minimum safety.

3. Convicted persons newly arrived at the institution of minimum safety, as well as convicted persons transferred from strict and light conditions shall serve the sentence in usual conditions in the institutions of minimum safety.

4. In a conscientious attitude towards labor, convicted persons with a first positive degree of behavior shall be transferred to facilitated conditions. In this case, the transfer shall be carried out only after serving not less than three months of the term of punishment under normal conditions from the date of receipt of the first positive degree of behavior, and for those convicted of crimes provided by Chapters 7, 8, 9, 12, 13 and 15 of the Criminal Code of the Republic of Kazakhstan, - one year.

5. Convicted persons serving a sentence in usual or light conditions, recognized as gross violators of established order of serving a sentence shall be transferred to strict conditions.

Convicted persons serving a sentence in light conditions having more than two active recoveries for violation of established order of serving a sentence shall be transferred to usual conditions.

6. Transfer from strict conditions of serving a sentence to usual conditions shall be carried out after six months in the absence of recoveries for violation of established order of serving a sentence.

7. Repeated transfer from strict conditions of serving a sentence to usual conditions or from usual to light conditions shall be carried out in the manner determined by this Article.

8. Convicted persons transferred from other institution of minimum safety shall serve a sentence in the same conditions that were determined for them before the transfer.

9. Convicted men and women may be detained in one and the same institution of minimum safety.

10. Is excluded by the Law of the Republic of Kazakhstan № 180-VI dated 12.07.2018 (shall be enforced upon expiry of ten calendar days after its first official publication).

Footnote. Article 142 as amended by the Law of the Republic of Kazakhstan № 180-VI dated 12.07.2018 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication).

Article 143. Conditions of serving a sentence in the institutions of minimum safety

1. Convicted persons serving a sentence in the institutions of minimum safety shall be detained without custody, but under control and supervision of administration of the institution.

2. Administration of the institution shall issue standard type document to convicted person confirming his (her) identity. Documents certifying identity of convicted person shall be kept in their personal records.

3. Convicted persons shall be allowed to bring into the territory of the institution, use and store objects and substances, with the exception of:

- 1) mobile communications;
- 2) computer equipment, facilities with audio, photo and video recording functions;
- 3) firearms and edged weapons;
- 4) explosive and explosive substances;
- 5) narcotic drugs or psychotropic substances;
- 6) military clothing;
- 7) all types of alcoholic beverages;
- 8) drugs with narcotic content without the permission of a doctor.

4. Convicted persons serving a sentence in usual conditions in the institutions of minimum safety shall reside in the halls of residence or prison cells.

They shall have the right to:

1) move without restraint within territory of the institution except for time provided for sleeping by internal regulations;

2) move within the borders of territory adjoining to the institution without supervision upon authorization of administration of the institution, if it is necessary due to a nature of work performed by them, due to education, for acquisition of prime necessities, visits of baths or hairdressing saloon, four times per month from nine to eighteen hours;

- 3) wear civilian clothes;
- 4) carry money and valuable things;
- 5) use money without limitation;
- 6) have one short-term and one long-term appointments every month.

5. Convicted persons serving a sentence in light conditions in the institutions of minimum safety shall reside in the halls of residence or prison cells.

Together with rights provided by a part four of this Article, convicted persons shall have the right to:

1) have one short-term and one-long-term appointment on a weekly basis;

2) reside with their families in a leased or own dwelling place within inhabited locality where the institution is located.

Permission or refusal to live with their families in a rented or their own living space within the settlement where the institution is located, as well as the extension or cancellation of this right, shall be formalized by a resolution of the head of the institution or the person replacing him/her, in accordance with the internal regulations of the institution. A copy of the decision shall be sent to the prosecutor no later than the next working day.

6. Convicted persons serving a sentence in strict conditions shall reside in the halls of residence or prison cells.

They shall have the right to:

1) move within territory of the institution upon authorization of administration of the institution except for a time provided for sleeping by internal regulations of the institution;

2) wear civilian clothes;

3) use money without limitation;

4) move within borders of territory adjoining to the institution without supervision upon authorization of administration of the institution, if it is necessary for acquisition of prime necessities, once per month from nine to eighteen hours;

5) have one short-term appointment on a quarterly basis and one long-term appointment per six months.

7. Labour of convicted persons shall be regulated by the labour legislation of the Republic of Kazakhstan with the exception of conclusion and termination of labour agreement and transfer to another work. Conclusion, termination of labour agreement and transfer of convicted person to another work shall be carried out by an employer with notifying administration of the institution.

8. Administration of the institution shall employ convicted persons to enterprises of the institution or, in the absence of such opportunity to state institutions of correctional system located beyond the borders of the institution, but within the relevant oblast, city of republican significance, the capital, where it is located, on the basis of contracts between administration of the institution and an employer with a right of convicted persons of residence upon condition of ensuring their proper control and supervision.

Convicted persons may be employed in other organizations within the relevant oblast, city of republican significance, the capital where it is located on the basis of contracts between administration of the institution and an employer without the right of residence.

Right of residence in state institutions of correctional system shall not be provided to convicted persons having negative grade of behavior.

9. Administration of the institution shall be obliged to revoke convicted person from the organization in which he (she) is employed:

1) upon written instruction of superior bodies of correctional system;

2) upon his (her) release;

3) upon imposition of emergency or military situation;

4) in case of violation of the order of serving a sentence by convicted person;

5) in case of non-fulfillment of obligations under the contract by an employer;

6) upon imposition of regime of special conditions in the institution.

10. Convicted persons shall be allowed to correspondence study in organizations of higher and postsecondary education located within territory of the relevant oblast, city of republican significance, the capital where the institutions is located in existence of the relevant technical conditions in the institution.

Footnote. Article 143 as amended by the Law of the Republic of Kazakhstan № 180-VI dated 12.07.2018 (shall be enforced upon expiry of ten calendar days after its first official publication); № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

Article 144. Institutions of full safety

1. Convicted persons for a term of more than five years with serving part of the sentence in a complete security institution, as well as convicted persons transferred to a complete security institution for up to three years for violating the established procedure for serving sentences in medium, maximum security institutions, are held in complete security institutions.

Convicted persons may also be held in complete security institutions on the grounds specified in article 89 of this Code.

2. Strict, usual and light conditions shall be established in the institutions of full safety.

3. In usual conditions the convicts to imprisonment for the term of over five years with serving of a part of term of punishment in establishment of full safety, and the convicts transferred from the strict and facilitated conditions are serving sentence.

4. Convicted persons transferred to a complete security institution for up to three years for violating the established procedure for serving sentences in medium and maximum security institutions, convicted from normal and facilitated conditions, recognized as malicious violators, serve their sentences in strict conditions.

At the same time, the term of serving in strict conditions of serving is calculated from the date of the actual arrival of the convicted person in an institution of complete security.

5. Convicted pregnant women and convicted women who have young children with them, as well as convicted persons with disabilities, may not be held in strict conditions.

6. Upon serving no less than one year of the term of punishment, convicted persons having the first positive grade of behavior shall be transferred from usual to light conditions or from strict to usual conditions of serving a sentence.

Footnote. Article 144 with the changes made by the Law of the Republic of Kazakhstan dated 03.07.2017 № 84-VI (shall be enforced after ten calendar days after day of its first official publication); dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication); dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication); dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication).

Article 145. Conditions of serving a sentence in the institutions of full safety

1. Persons convicted to deprivation of freedom in the institutions of full safety shall be detained in prison cells.

Upon written application of convicted person, as well as in cases of occurrence of a threat of personal security of convicted person or necessity of isolation of convicted person threatening a threat to life and health of other convicted persons or personnel of the institution, such convicted persons shall be detained in one-man prison cells under substantiated regulation of a head of the institution and upon agreement of a prosecutor.

Prison cells with more places occupied may be used for detention of convicted persons creating a threat, as well as convicted persons in respect of whom a threat of personal security is occurred.

Transfer to one-man prison cells upon the application of convicted persons shall be carried out in existence of free one-man prison cells.

2. Placement of convicted persons in prison cells shall be carried out in compliance with requirements provided by Article 94 of this Code.

Convicted persons being in strict, usual and light conditions of serving a sentence shall be detained separately.

Convicted persons oriented to the institutions of full safety for performance of works on economic service shall be detained in isolation from other convicted persons.

3. Walks of convicted persons shall be carried out on a cell basis in daily time in a specially equipped outdoor part of territory.

4. Convicted persons serving a sentence in strict conditions shall have the right to:

1) spend funds placed on controlled cash accounts of temporary money allocation on a monthly basis for acquisition of food products and prime necessities in amount up to two monthly calculation indices;

2) receive one parcel or package and one letter packet within year;

3) have two short-time appointments within year;

4) enjoy daily walk with a length of one hour.

5. Convicted persons serving a sentence in usual conditions shall have the right to;

1) spend funds placed on controlled cash accounts of temporary money allocation on a monthly basis for acquisition of food products and prime necessities in amount up to five monthly calculation indices;

2) receive two parcels or packages and two letter packets within year;

3) have two short-term and one long-term appointment within year;

4) enjoy daily walk with a length of one and half hours.

6. Convicted persons serving a sentence in light conditions shall have the right to:

1) spend funds placed on controlled cash accounts of temporary money allocation on a monthly basis for acquisition of food products and prime necessities in amount up to seven monthly calculation indices;

2) receive three parcels or packages and three letter packets within year;

3) have three short-term and three long-term appointments within year;

4) enjoy daily walk with a length of two hours.

Footnote. Article 145 as amended by the Law of the Republic of Kazakhstan dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication).

Chapter 23. SPECIAL ASPECTS OF SERVING A SENTENCE IN THE FORM OF DEPRIVATION OF FREEDOM WITH CELL CONDITIONS OF DETENTION

Article 146. Institution with cell condition of detention of convicted persons

1. Admission of convicted persons to deprivation of freedom to the institutions shall be carried out by administration in the manner established by internal regulations of the institution.

2. Convicted persons arrived at the institutions shall be placed in probationary ward for the term up to fifteen days. During the period of stay in probationary ward, the identity of convicted person shall be researched, his (her) profile shall be drawn up, as well as methods of work with him (her) shall be developed and compatibility of his (her) detention with other convicted persons shall be determined.

3. Prison cells shall be equipped by individual sleeping accommodation, wardrobes for clothes, underwear and dishware, sanitary conveniences and washing stands.

4. Convicted persons being in prison cells shall be provided by walks with a length as follows:

- 1) in strict conditions of detention – one and half hours;
- 2) in usual conditions of detention – up to four hours.

During taking convicted persons for a walk, searches and technical inspections shall be made in prison cells.

During the stay of convicted persons on a walk, prison cells shall be locked, and stay of convicted persons in there shall be excluded.

Walks of convicted persons being in light and preferential conditions shall be carried out by blocks (floor by floor) in separate walking courts of local fields.

Walks of convicted persons being in usual and strict conditions shall be carried out in exercise yards on a cell basis.

5. Convicted persons being in light and preferential conditions of detention may be outside a prison cell from nine to twenty hours.

6. Food acceptance by convicted persons shall be carried out on a cell basis, as well as in a dining room. Convicted persons taken for work to production area, as well as detained in light and preferential conditions shall accept food in dining rooms of production areas and residential area.

7. Opening the doors of prison cells shall be prohibited with the exception of cases provided by parts five and six of this Article, as well as by rules of organizing activity on

carrying out the control and supervision of behavior of persons detained in the institutions and performance of surveys and searches.

8. Supervision of convicted persons detained in the institutions with detention on a cell basis shall be carried out in accordance with the rules of organizing activity on carrying out the supervision of convicted persons in the institutions and production of surveys and searches.

Article 147. Main conditions of prison cell detention

1. Convicted persons shall be placed in prison cells according to the norms of dwelling place established by a part one of Article 115 of this Code. Each section shall be equipped by shower cubicles.

Cells for holding convicts shall be equipped in accordance with sanitary requirements.

2. Inspections of convicted persons shall be made in bodies of prison cells according to checking cards.

3. Convicted persons shall be allowed to smoke only in places specially designated for these purposes.

4. Tobacco products and matches, lighters belonging to convicted persons shall be also kept in specially equipped locker (box) in a storage room.

5. Pre-registration of convicts for an appointment with a medical worker (medical examination) is carried out at the request of the convicts when transferring the duty by the control service and conducting reconciliation checks of convicts.

During hospitalization, the convict is transferred to a medical organization located in the institution to receive medical care in a hospital. If it is impossible to provide medical care due to the lack of medical devices and (or) specialists of appropriate qualifications in a medical organization located in an institution, the convict is hospitalized in another appropriate medical organization.

Footnote. Part five as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons held in pre-trial detention centers of the penitentiary (penal) system; from January 1, 2023 - in relation to persons held in institutions of the penitentiary (penal) system).

Footnote. Article 147 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure); dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons held in pre-trial detention centers of the penitentiary (penal) system; from January 1, 2023 - in relation to persons held in institutions of criminal-executive (penitentiary) system;).

Article 148. Educational work with convicted persons in the institutions with prison cell detention

1. Educational work with convicted persons in the institutions with prison cell detention shall be carried out in accordance with requirements established by this Code.
2. Individual educational work shall be performed in prison cells where convicted persons are detained.
3. Upon performance of educational work in group and mass forms, convicted persons detained in prison cells shall be united in small and large groups in the premises designated for this.
4. Organization of obtaining basic, basic secondary, general secondary education by persons convicted to deprivation of freedom shall be carried out in accordance with requirements established by this Code.

Article 149. Labour of convicted persons in conditions of prison cell detention

1. Labour of convicted persons shall be organized in specially equipped work prison cells.
2. Labour of convicted persons outside prison cells shall be carried out in accordance with internal regulations of the institutions.
3. Convicted persons, their things and clothes, as well as work prison cells shall be subject to survey and search before beginning and after end of works.
4. In the absence of work prison cells, the labour shall be organized in the territory of isolated local fields of production area.

Chapter 24. SPECIAL ASPECTS OF SERVING A SENTENCE IN THE FORM OF DEPRIVATION OF FREEDOM BY MINOR CONVICTED PERSONS

Article 150. Procedure for serving a sentence in the institutions of medium safety for detention of minor children

1. Strict, usual, light and preferential conditions of serving a sentence shall be established in the institutions of medium safety for detention of minor children.
2. Newly arrived convicted persons, as well as convicted persons transferred from strict, light or preferential conditions of serving a sentence shall serve a sentence in usual conditions in the institutions of medium safety for detention of minor children.
3. Upon serving no less than six months in usual conditions in the absence of recoveries for violation of established order of serving a sentence and fair relation to labour and study, convicted persons having the first positive grade of behavior shall be transferred to light conditions.
4. Convicted persons serving a sentence in light conditions being the violators of established order of serving a sentence shall be transferred to light conditions. Repeated transfer in light conditions shall be carried out in the manner determined by a part three of this Article.

5. Upon fair relation to labour and study, convicted persons having the third positive grade of behavior being in light conditions no less than three months shall be transferred to preferential conditions the year before release on serving the term.

6. Convicted persons serving a sentence in preferential conditions being the violators of established order of serving a sentence shall be transferred to light conditions. Repeated transfer to preferential conditions shall be carried out no earlier than six months after return to light conditions.

7. Convicted persons recognized as gross violators of established order of serving a sentence shall be transferred from usual, light and preferential conditions to strict conditions for the term from three to six months.

8. transfer of convicted persons from one conditions to another shall be carried out under decision of commission of the institution on the basis of submission of educational board.

Representatives of local executive bodies of oblast, city of republican significance, the capital, as well as communities may take participation in the work of commission of the institution.

9. Head of the institution shall take decision on transfer of convicted person to a premise of temporary isolation for elimination of a possibility of committing the violation of the order of serving a sentence.

In case of absence of a head of the institution, decision on transfer of convicted person to the premise of temporary isolation shall be taken by associate director of duty of the institution.

Regulation on transfer of convicted person to the premise of temporary isolation shall be issued after medical certification of convicted person for possibility of detention in there.

Convicted person placed into the premise of temporary isolation shall serve a sentence in conditions of detention determined to him (her) before transfer with a provision of right of two-hour walk.

A copy of the decision shall be sent to the prosecutor no later than the next working day.

Footnote. Article 150 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

Article 151. Conditions of serving a sentence in the institutions of medium safety for detention of minor children

1. Convicted persons serving a sentence in usual conditions shall reside in the halls of residence or prison cells.

They shall have the right to:

1) spend funds placed on controlled cash accounts of temporary money allocation on a monthly basis for acquisition of food products and prime necessities in amount up to ten monthly calculation indices;

2) have eight short-term and four long-term appointments within year;

3) receive ten parcels or packages and ten letter packets within year.

2. Convicted persons serving a sentence in light conditions shall reside in the halls of residence or prison cells.

They shall have the right to:

1) spend funds placed on controlled cash accounts of temporary money allocation on a monthly basis for acquisition of food products and prime necessities in amount up to fifteen monthly calculation indices;

2) have twenty four short-term and six long-term appointments within year;

3) receive fourteen parcels or packages and fourteen letter packets within year.

Upon authorization of administration of the institution, long-term appointments shall be held beyond its borders.

3. Convicted persons serving a sentence in preferential conditions shall reside beyond the institution in improved dwelling places without custody, but under control and supervision.

They shall have the right to:

1) spend funds placed on controlled cash accounts of temporary money allocation for acquisition of food products and prime necessities without limitation;

2) use money;

3) have short-term and long-term appointments without limitation;

4) receive parcels or packages and letter packets without limitation of their quantity;

5) use civilian clothes and footwear.

4. Convicted persons serving a sentence in strict conditions shall reside in prison cells locked in time free from study or work.

They shall have the right to:

1) spend funds placed on controlled cash accounts of temporary money allocation on a monthly basis for acquisition of food products and prime necessities in amount up to eight monthly calculation indices;

2) have six short-term and two long-term appointments within year;

3) receive six parcels or packages and six letter packets within year.

5. besides the prohibitions provided by a part three of Article 104 of this Code, minor children shall be prohibited as follows:

1) to consume and keep tobacco products;

2) miss classes conducted in general educational organizations, as well as organizations of technical and professional education without justifiable reasons;

3) miss obligatory events without justifiable reasons.

Article 152. Incentives applied in the institutions of medium safety for detention of minor children

For good behavior, fair relation to labour and study, active participation in work of voluntary organizations and educational measures to convicted persons together with those provided by Article 128 of this Code, the following incentives may be applied:

- 1) provision of right to visiting cultural entertainment and sport events beyond the borders of the institution being accompanied by servants;
- 2) provision of right to go out beyond the borders of the institution being accompanied by parents or close relatives.

Article 153. Special aspects of applying the incentives in the institutions of medium safety for detention of minor children

1. Convicted persons to whom incentives are applied provided by Article 152 of this Code shall be issued by civilian clothes belonging to them.
2. Visit of cultural entertainment, sport events and other measures in night time shall not be allowed.
3. Length of going out beyond the borders of the institution shall be established by a head of the institution but no more than eight hours.

Article 154. Procedure for applying measures of recovery in the institutions of medium safety for detention of minor children

1. Violation of order of serving a sentence by convicted minor persons is non-performance of requirements established by this Code and internal regulations of the institutions.
2. Gross violations of the order of serving a sentence by persons convicted to deprivation of freedom are:
 - 1) refusal from works without justifiable reasons on provision of amenities of the institution and improvement of living conditions;
 - 2) consumption of alcohol, narcotic drugs, psychotropic or other doping substances;
 - 3) threat for representatives of administration of the institution, their insult linked with intentional infliction of any damage to themselves, for the purpose of violation of a regime of serving a sentence;
 - 4) transfer (receipt), production, keeping of subjects, documents, things, products, substances, food products not provided by internal regulations of the institutions;
 - 5) playing cards, as well as participation in gambling for the purpose of material or other profit;
 - 5) avoidance from mandatory and compulsory treatment imposed by the court;
 - 7) commission of sexual actions;
 - 8) organization or active participation in groups of convicted persons oriented to commission of violations mentioned in subparagraphs 1) – 7) of this part.
3. The following recovery measures shall be applied for violation of the order of serving a sentence:
 - 1) admonition;

- 2) reprimand;
- 3) severe reprimand;
- 4) placement into premise of temporary isolation for the term up to seventy two hours.

A copy of the decision on the application of penalties against the convicted person shall be sent to the prosecutor no later than the next working day.

4. Convicted person committed the violations mentioned in a part two of this Article shall be recognized as gross violator of established order of serving a sentence under the regulation of a head of the institution upon condition of imposing recovery for him (her) in the form of severe reprimand two times and more.

5. For violations of order and conditions of serving a sentence to convicted persons attained the majority age the recovery measures shall be applied in the manner provided by Articles 131-134 of this Code.

6. In the event that convicts are transferred from temporary isolation to medical institutions, as well as medical healthcare organizations, the period of their stay in these medical institutions shall be counted in the period of serving the penalty.

Footnote. Article 154 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure).

Article 155. Leaving of convicted persons in the institutions of medium safety for detention of minor children convicted to deprivation of freedom that attained the majority age

1. Persons convicted to deprivation of freedom that attained the age of eighteen years may be left in the institution upon their agreement but no more than until their attainment of twenty one years.

2. Conditions of serving a sentence, food standards and material support for minor convicted persons shall be applied to convicted persons left in the institution.

3. Decision on leaving of convicted persons attained the age of eighteen years in the institution shall be taken by court on the basis of submission of a head of the institution.

Article 156. Transfer of convicted persons from the institution of medium safety for detention of minor children to other institutions

Convicted persons attained the age of eighteen years upon their agreement, as well as convicted persons attained the age of twenty one years shall be transferred for the further serving a sentence to the institution of medium safety under court decision in the manner established by the Criminal Procedure Code of the Republic of Kazakhstan.

Article 157. Organization of educational process

1. For the purpose of correction of convicted persons and their social adaptation, a unified educational process oriented to formation of law abiding behavior, faith relation to labour and

study, obtaining basic, basic secondary, general secondary, technical and professional education, increase of cultural level by convicted persons shall be organized in the institutions in accordance with the rules approved by the authorized body in the scope of penal execution activity.

2. Educational work with convicted persons shall be conducted considering psychophysiological special aspects typical for age of adolescence, in individual, group and mass forms on the basis of methods of psychology and pedagogical effect.

3. Convicts receive primary, basic secondary, general secondary, technical, vocational and additional education in accordance with the legislation of the Republic of Kazakhstan in the field of education.

4. Guardian councils and parents' committees shall take participation in educational work with convicted persons.

Footnote. Article 157 as amended by the Law of the Republic of Kazakhstan dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication).

SECTION 5. EXECUTION OF PUNISHMENT IN THE FORM OF DEATH PENALTY

Footnote. Section 5 is excluded by the Law of the Republic of Kazakhstan dated 29.12.2021 № 89-VII (shall be enforced ten calendar days after the day of its first official publication).

SECTION 6. RELEASE FROM SERVING A SENTENCE, ASSISTANCE TO CONVICTED PERSONS RELEASED FROM SERVING A SENTENCE AND THEIR CONTROL. PROBATION CONTROL OF PERSONS CONVICTED CONDITIONALLY

Chapter 26. RELEASE FROM SERVING A SENTENCE

Article 161. Grounds for release from serving a sentence

1. Grounds for release from serving a sentence are:

- 1) serving the term of punishment imposed under court verdict;
- 2) remission of court verdict with delivering of acquitting judgement or termination of proceeding on a case;
- 3) conditional early release from serving a sentence;
- 4) substitution of unserved part of punishment by lenient type of punishment;
- 5) act of amnesty;
- 6) act of pardon;
- 7) disease of a convict, specified in the list approved by the authorized body in the field of healthcare in agreement with the authorized body in the field of penitentiary activities;

Footnote. Subparagraph 7) as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons held in pre-trial detention centers of the penitentiary (penal) system; from January 1, 2023 - in relation to persons held in institutions of the penitentiary (penal) system;).

8) other grounds provided by the Law.

2. For a month before being released on completion of their sentence, and on other grounds within two working days after the release of the administration of the institution will send the probation service on the chosen place of residence of the convicted person a copy of the verdict to further the execution of the penalty of deprivation of the right to hold certain posts or engage in certain activities.

After receipt of the copy of court verdict, the probation service shall direct notification to the relevant institution, as well as to the court that delivered the verdict for the further execution of punishment in the form of deprivation of the right to hold particular position or engage in particular activity.

3. A signed testimony on compulsory appearance in probation service at elected place of residence within five days shall be collected from person released from serving a sentence in the form of deprivation of freedom with unserved term of additional type of punishment in the form of deprivation of right to hold particular position or engage in particular activity by administration of the institution from the date of his (her) arrival.

4. Convicted person shall go to elected place of residence on an independent basis at the expense of budget funds in the manner determined by the legislation of the Republic of Kazakhstan.

Footnote. Article 161 with the changes made by the law of the Republic of Kazakhstan dated 03.07.2017 № 84-VI (shall be enforced after ten calendar days after the day off its first official publication); dated 30.12.2021 № 95-VII (shall be enforced: from July 1, 2022 - in relation to persons held in pre-trial detention centers of the penitentiary (penal) system; from January 1, 2023 - in relation to persons held in institutions of criminal-executive (penitentiary) system;).

Article 162. Presentation to the early release from punishment, unserved part of a sentence more lenient punishment

Footnote. Article 162 heading in edition of the Law of the Republic of Kazakhstan dated 03.07.2017 № 84-VI (shall be enforced after ten calendar days after day of its first official publication).

1. Upon service of a part of the term of punishment established by the Law by convicted person, the institution or body executing the punishments shall be obliged to notify the convicted person within five days term in written form on occurrence of the right to file a petition in court for considering the question on conditional early release from serving a sentence or substitution of unserved part of punishment by more lenient type of punishment.

2. Petition on clemency shall be brought in by the institution or body executing the punishment in the manner determined by the legislation of the Republic of Kazakhstan.

3. Petition of convicted person on conditional early release from serving a sentence, substitution of unserved part of punishment by lenient type of punishment and clemency by the institution or body executing the punishment shall be enclosed with data characterizing his (her) identity, behavior, relation to labour and study for a time of serving a sentence.

4. Procedure for applying amnesty shall be determined by the body that issued the act of amnesty.

5. Submission on release from serving a sentence due to mental disease shall be made in court by a head of the institution or body executing the punishment. Conclusion of medical examining board and personal record of convicted person shall be directed at the same time with a submission.

6. Submission for exemption from sentence, part of unserved punishment more lenient punishment because of a serious illness is brought to court by the head of the institution or body carrying out the sentence. Concurrently with the Court shall be sent to the Medical Commission and the personal file of the prisoner. In the view should contain data describing the behaviour of the convicted person during the time of serving the sentence.

7. When a disability of the first or second category is established, the body executing the punishment makes a recommendation to the court about the early release from serving the sentence of a convicted person sentenced to punishment in the form of community service, correctional labor or restriction of freedom.

8. In case of pregnancy of a women convicted to punishment in the form of involving to public works, correctional works or restriction of freedom, the body executing the punishment shall make a submission in court on her deferral of serving a sentence from the date of provision of pregnancy leave and maternity leave.

9. Within ten days after applying with a petition on conditional early release from serving a sentence or substitution of unserved part of the punishment by lenient type of punishment, administration of the institution or body executing the punishments shall be obliged to direct it in court accompanied by materials mentioned in a part three of this Article and personal record of convicted person, as well as notify a prosecutor in written form in compliance with provisions provided by a part ten of this Article.

Materials to the court and notification to the prosecutor may be sent in the form of an electronic document.

10. Upon consideration of petition on conditional early release from punishment, court shall have the right to release convicted person on probation-on parole or substitute his (her) unserved part of punishment by other lenient punishment in existence of conditions provided by the Criminal Code of the Republic of Kazakhstan or refuse.

In the event of the court's refusal, the repeated submission of an application on any of the above grounds may take place no earlier than upon expiry of six months after the date of the

refusal order. At the same time, the court's refusal to replace the unserved part of the punishment with a lesser sentence shall not prevent the submission of an application for release on parole before the expiration of the six-month period, as well as the court's refusal to release it on parole for a lesser sentence.

Footnote. Article 162 with the changes made by the Law of the Republic of Kazakhstan from 03.07.2017 № 84-VI (shall be enforced after ten calendar days after day of its first official publication); № 180-VI dated 12.07.2018 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 163. Deferral of executing the punishment to pregnant women and women having infant children, men singly nurturing infant children

1. Pregnant women and women having infant children, men singly nurturing infant children serving a sentence in the institution may be provided by deferral of executing the punishment by court for the term up to five years but no more than upon attainment of fourteen years by a child.

2. Deferral of executing the punishment shall not be applied to persons convicted for the term more than five years for commission of grave and especially grave crimes against person

3. Deferral of executing the punishment of convicted persons serving a sentence in the form of correctional works, public works, restriction of freedom shall be carried out in accordance with a part eight of Article 52, part four of Article 57 and part three of Article 69 of this Code.

4. Administration of the institution shall direct a submission in court on applying deferral of executing the punishment to convicted person or his (her) petition. They shall be accompanied by: characteristics of convicted person; act of checking living conditions of convicted person, his (her) husband (wife) or relatives who agreed to receive convicted person and child, provide dwelling place to them and create necessary conditions for living; medical opinion on pregnancy or certificate on existence of a child, as well as personal record of convicted person.

5. Upon receiving the court regulation on deferral of executing the punishment in respect of convicted person, administration of the institution shall release him (her). Signed testimony on appearance in probation service at the place of residence shall be taken from convicted person within five business days from the date of arrival.

6. Convicted person shall go to the place of residence on an independent basis at the expense of budget funds.

7. Copy of the court regulation on deferral of executing the punishment with specification of the date of release shall be directed to the probation service at the place of residence of convicted person on a date of release.

8. After appearance of convicted person, the probation service shall be obliged record him (her), request materials characterizing him (her) in the institution at the place of release and carry out control of his (her) behavior in the following within three business days.

9. In case of non-appearance of convicted person mentioned in a part one of this Article, within two week term from the date of release, probation service shall conduct initial search activities and direct materials in court for putting him (her) on wanted list in the manner established by the Law.

Article 164. Consequences of non-compliance with conditions of deferral of executing the punishment

1. Probation service shall issue a warning in respect of convicted person to whom deferral of executing the punishment is applied, who allowed violation of public order, if in respect of him (her) the measures of administrative recovery or disciplinary recovery were applied, or if he (she) avoided from nurturing of a child or his (her) care.

2. In cases if convicted person refused from a child or continues to avoid from nurturing of a child, or avoided from control or continues to violate public order after two-fold written warning, probation service shall make a submission in court at the place of residence of convicted person on cancellation of deferral of executing the punishment and directing of convicted person for service of sentence imposed by the court verdict. Submission shall be accompanied by copy of court decision on deferral of executing the punishment.

3. Upon expiry of the term of deferral of executing the punishment or in cases of death of a child or termination of pregnancy, probation service at the place of residence of convicted person in recognition of his (her) behavior shall make a submission in court on release from serving of unserved part of punishment or substitution of unserved part of punishment by lenient sentence, or his (her) directing to the institution.

Article 165. Termination of serving a sentence and procedure for release

1. Service of sentence in the form of deprivation of right to hold particular positions or engage in particular activity, involvement to public works, correctional works, restriction of freedom, arrest, deprivation of freedom shall be terminated in the last date of the term of punishment considering those changes that may be included to the term of punishment in accordance with the Law.

2. Persons convicted to arrest and deprivation of freedom shall be released in the first half of the last date of the term of punishment. The last date of the term of serving a sentence is a date preceding the date of calculation of beginning of the term of punishment.

If the term of punishment terminates in non-working day or public holiday, convicted person shall be released from serving a sentence on a date preceding non-working day or public holiday. Upon calculation of the term of punishment in months, it shall be expired in a

relevant number of the last month, and if this month doesn't have the relevant number then in the last date of this month.

3. Upon release, convicted person shall be issued by things belonging to him (her), values, money kept on controlled cash account of temporary money allocation and personal documents, as well as document on serving a sentence or release from the punishment.

4. Documents certifying identity of the person released from punishment in the form of arrest or released on serving of the term of deprivation of freedom without establishment of administrative supervision, his (her) labour book and pension certificate, as well as other personal documents keeping in a personal record of convicted person shall be handed to him (her) upon release. In the absence of documents certifying identity, labour book and pension certificate in a personal record of convicted person, administration of the institution shall take measures on their drawing up within six months before release.

Documents certifying identity of a person released on probation-on parole from punishment in the form of deprivation of freedom, upon substitution of deprivation of freedom to lenient type of punishment, deferral of serving a sentence and additional punishment of the person released from the institution, as well as released on serving the term in respect of whom administration supervision is established, shall be directed to the internal affairs bodies on elected place of residence and shall be issued after relevant recording in internal affairs bodies and probation service.

5. Early release from serving a sentence shall be performed on a date of receipt of the relevant documents, and in the morning of the next date if documents are received after the end of business date.

6. On a date of termination of the term of punishment in the form of correctional works, and by other grounds upon release from this punishment no later than the next business date after receipt of the relevant documents, probation service shall be obliged to notify administration of the enterprise, institution or organization in written where convicted person shall serve a sentence on termination of retentions from his (her) salary. Convicted person shall be issued by the document on serving a sentence.

7. The rights to restoration of property, labour, housing and other lost rights shall be explained to a person released from serving a sentence in consequence of remission of verdict due to termination of the criminal case on the basis of paragraphs 1), 2), 5), 6), 7) and 8) of a part one of Article 35 of the Criminal Procedure Code of the Republic of Kazakhstan, delivery of acquitting judgement by a head of the institution or body executing the punishment.

8. One month before the release, administration of the institution shall direct copy of the court verdict to probation service on elected place of residence of convicted person for the following execution of punishment in the form of deprivation of right to hold particular position or engage in particular activity.

Probation service shall direct notification to the relevant institution, as well as court that delivered the verdict after receipt of copy of the court verdict for the following execution of punishment in the form of deprivation of right to hold particular position or engage in particular activity.

9. Signed testimony on compulsory appearance to probation service within five days term on elected place of residence shall be taken from the person released from serving a sentence in the form of deprivation of freedom with unserved term of additional form of punishment in the form of deprivation of right to hold particular position or engage in particular activity by administration of the institution from the date of his (her) arrival.

10. The convict follows to the place of residence or work chosen by him independently at the expense of budgetary funds in accordance with the rules approved by the authorized body in the field of penitentiary activities.

Footnote. Article 165 as amended by the Law of the Republic of Kazakhstan dated 07.11.2014 № 248-V (shall be enforced from 01.01.2015); dated 24.11.2021 № 75-VII (shall be enforced upon the expiration of ten calendar days after the day of its first official publication).

Chapter 27. ASSISTANCE TO CONVICTED PERSONS RELEASED FROM SERVING A SENTENCE AND THEIR CONTROL

Article 166. Obligations of administration of the institution on assistance in employment and living conditions of released convicted persons

1. Not later than one year before the expiration of the term of deprivation of liberty, the administration of the institution notifies local executive bodies, internal affairs bodies of the region, city of republican significance, the capital, district, town of regional significance at the chosen place of residence of the convicted person about his upcoming release, the availability of housing, his ability to work and available specialties.

At the same time, the administration of the institution draws up an individual program for the convict on the amount of social and legal assistance necessary for social adaptation after release, which is sent to the local executive body at the place of residence chosen by the convict.

2. Organizational and educational measures shall be conducted with convicted person for the purpose of his (her) preparation to release, his (her) rights and obligations shall be explained.

3. Persons with disabilities of the first or second category, as well as men over sixty-three years old and women over fifty-eight years old, upon their written application and recommendation of the institution, are sent by social protection bodies to medical and social institutions (organizations) for the elderly and persons with disabilities.

Other persons being in need of social assistance shall be directed to the social adaptation centres upon their written application and upon submission of the institution.

Footnote. Article 166 with the changes made by the Law of the Republic of Kazakhstan dated 30.12.2016 № 39-VI (shall be enforced after ten calendar days after day of its first official publication); dated 30.12.2021 № 95-VII (shall be enforced sixty calendar days after the day of its first official publication); dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 167. Rendering of assistance to persons released from serving a sentence

1. Persons released from serving a sentence in the form of arrest, deprivation of freedom shall be ensured by gratuitous travel to the residence place or work place elected by them, as well as food products or money for the path of travel within the territory of the Republic of Kazakhstan.

2. In case of absence of necessary seasonable clothes, footwear and funds for their acquisition of a person released from the institution, he (she) shall be provided by clothes and footwear at the expense of budget funds.

3. Provision of food, clothes, footwear, as well as payment for travel of persons released from the punishment shall be performed by the institution executing the punishment.

4. Upon release from serving a sentence in the form of imprisonment of persons with disabilities of the first or second category, pregnant women and women with young children, as well as minors, six months in advance, the administration of the institution notifies their spouse (spouse), relatives or other persons specified in the statement of the convicted person, as well as the probation service at the place of residence chosen by the convicted.

5. The individuals released from institutions, needing for health reasons permanent care and also minors aged up to sixteen years go to the residence accompanied by the spouse (spouse), relatives or other persons or the employee of institution or service of a probation who have arrived behind them from the residence elected by the convict.

Footnote. Article 167 with the changes made by the Law of the Republic of Kazakhstan dated 30.12.2016 № 39-VI (shall be enforced after ten calendar days after day of its first official publication); dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 168. Assistance in employment and household arrangements, provision of other types of social assistance to persons released from serving a sentence

1. Akimat of the region, city of republican significance, capital, district, town of regional significance:

1) assists in employment and household arrangements, as well as in the provision of other types of social assistance to persons released from serving a sentence;

2) annually allocates job quotas for persons released from institutions, and also encourages individuals and legal entities who employ them.

2. A person who has been released from an institution has the right to apply to local executive bodies, public associations and other organizations for assistance in employment and household arrangements and other types of social assistance.

Footnote. Article 168 - as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced sixty calendar days after the day of its first official publication).

Article 169. Probation control of behavior of a person released on probation-on parole

1. Control of behavior of a person released on probation-on parole from serving a sentence shall be carried out by police officers of internal affairs bodies at the place of his (her) residence in the manner determined by the authorized body in the scope of penal execution activity.

For ensuring proper control and receipt of information on location of a person released on probation-on parole, police officers of internal affairs bodies shall have the right to apply electronic follower arrangement, the list of which shall be approved by the Government of the Republic of Kazakhstan.

Procedure for applying electronic following arrangement shall be determined by authorized body in the scope of penal execution activity.

2. Internal affairs bodies shall carry out personal records of persons released on probation-on parole within the rest unserved part of punishment, shall control execution of obligations imposed on them.

3. If within the rest unserved part of punishment, a person who was released on probation-on parole committed administrative infraction repeatedly, for which he (she) was imposed by administrative recovery, or grossly avoided the fulfillment of obligations imposed on him (her) upon applying conditional early release, the internal affairs body shall make a submission in court on cancellation of conditional early release and execution of the rest unserved part of punishment.

4. After recording of a person released on probation-on parole, internal affairs bodies shall :

1) ensure his appearance at the local executive bodies to provide him with social and legal assistance;

2) send a copy of the court decision to local executive bodies.

5. Excluded by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced sixty calendar days after the day of its first official publication).

6. Excluded by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced calendar days after the day of its first official publication).

7. A person released on parole has the right to apply to local executive bodies, public associations and other organizations for provision of social and legal assistance to him.

Local executive bodies, public associations and other organizations provide social and legal assistance to a person released on parole in accordance with the legislation of the Republic of Kazakhstan.

8. Person released on probation-on parole shall be obliged to:

1) pass registration in internal affairs bodies at the place of residence within five business days from the date of release from the institution;

2) at least once a month to appear in the internal affairs body, where he is registered, for a report on his behavior;

3) not to leave place of residence in a time determined by internal affairs bodies;

4) not to change permanent place of residence, work and study without written notification of internal affairs bodies;

5) not to visit places determined by internal affairs bodies in a time free from work and study;

6) not to leave to other areas without written permission of law-enforcement bodies;

6-1) not to leave the territory of the Republic of Kazakhstan before full serving of the main punishment and the expiration of probational control;

6-2) not to consume alcoholic beverages, as well as narcotic drugs and psychotropic substances, their analogues for non-medical purposes;

7) take measures on compensation for damage inflicted to health, property of injured person, or material damage to the state;

8) represent explanations and other documents required for carrying out the control of behavior of a person released on probation-on parole upon requirement of internal affairs bodies;

9) excluded by the Law of the Republic of Kazakhstan dated 18.11.2015 № 412-V (shall be enforced from 01.01.2021).

By this, mentioned persons shall represent certificate of the body of government revenues on receipt of declaration to internal affairs body.

9. In case of avoidance of a person released on probation-on parole from probation control, internal affairs bodies shall conduct initial measures on establishment of his (her) location and reasons of avoidance.

In case of non-establishment of location of a person released on probation-on parole, internal affairs bodies shall make a submission in court on putting him (her) on wanted list and choosing of measure of restraint.

Footnote. Article 169 as amended by the Law of the Republic of Kazakhstan dated 28.11.2014 № 257 (the order of enforcement see subparagraph 12) of Article 10); dated 18.11.2015 № 412-V (shall be enforced from 01.01.2021); dated 18.04.2017 № 58-VI (shall be enforced after ten calendar days after day of its first official publication); № 180-VI dated 12.07.2018 (shall be enforced upon expiry of ten calendar days after its first official

publication); dated 30.12.2021 № 95-VII (shall be enforced sixty calendar days after the day of its first official publication).

Article 170. Control over the state of health of a person released from punishment or to whom a delay in serving a sentence has been applied due to illness

Footnote. The title of Article 170 as amended by the Law of the Republic of Kazakhstan dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication).

1. Control over the state of health of a person released from punishment or to whom a delay in serving a sentence has been applied due to a mental disorder or other serious illness is carried out by the administration of the institution from which he was released or to which he was assigned.

2. The healthcare organization where a person released from punishment or a person to whom a suspended sentence has been applied is being treated provides quarterly information to the administration of the institution about his health status, and in cases of recovery or death informs it and the prosecutor immediately.

3. In case of recovery of a person, the resumption of execution of punishment is carried out by a court order at the request of the convicted person or on the recommendation of the administration of the institution.

Footnote. Article 170 as amended by Law of the Republic of Kazakhstan № 292-VI dated December 27, 2019 (see Art. 2 for the enactment procedure); dated 17.03.2023 № 212-VII (shall be enforced sixty calendar days after the date of its first official publication).

Article 171. Administrative supervision of persons served a sentence

Administrative supervision is established for the persons who have served sentence for:

1) the crimes committed in case of dangerous recidivism, as well as for terrorist or extremist crimes, crimes against the sexual integrity of minors;

2) grave and (or) especially grave crimes or were convicted two or more times to imprisonment for intentional crimes and who at the time of termination of the sentence had the third negative degree of behavior.

Footnote. Article 171 with the changes made by laws of the Republic of Kazakhstan date 09.04.2016 № 501-V (shall be enforced after ten calendar days after day of its first official publication); dated 11.07.2017 № 91-VI (shall be enforced after ten calendar days after day of its first official publication); № 180-VI dated 12.07.2018 (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 172. Preparation and drawing up of materials for persons in respect of whom it is required to establish administrative supervision of internal affairs bodies

1. Administration of the institution shall determine circle of persons in respect of whom it is required to establish administrative supervision of internal affairs bodies, and shall direct a submission in court on establishment of administrative supervision in respect of these persons no later than month until the expiration of term of punishment.

2. Before release from the institution of a person in respect of whom administrative supervision is established, administration of the institution shall direct the court regulation, characterizing materials and notification on time of his (her) arrival to internal affairs body on the place of residence elected by him (her).

3. In case of non-appearance of a person on elected place of residence in respect of whom administrative supervision is established, internal affairs body shall conduct initial measures on establishment of his (her) location and reasons of his (her) non-appearance.

In case of non-establishment of location of mentioned person, internal affairs body shall make a submission in court on putting him (her) on wanted list and choosing of measure of restraint.

4. Internal affairs bodies shall have the right to use electronic follower arrangement, list of which shall be approved by the Government of the Republic of Kazakhstan for carrying out proper administrative supervision and receipt of information on location of a person in respect of whom the administrative supervision is established by the court. Procedure for their applying and organization of activity of internal affairs bodies on carrying out of supervision shall be determined by the authorized body in the scope of penal execution activity.

5. After recording of the person in respect of whom the administrative supervision is established by court, internal affairs bodies shall:

1) ensure his appearance at the local executive bodies for provision of social and legal assistance;

2) send a copy of the court decision to local executive bodies.

6. Excluded by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced sixty calendar days after the day of its first official publication).

7. Excluded by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced sixty calendar days after the day of its first official publication).

8. A person in respect of whom administrative supervision has been established by a court has the right to apply to local executive bodies, public associations and other organizations for provision of social and legal assistance to him.

Local executive bodies, public associations and other organizations provide social and legal assistance to a person in respect of whom administrative supervision has been established by the court, in accordance with the legislation of the Republic of Kazakhstan.

9. A person in respect of whom administrative supervision has been established by the court is obliged to appear at least once a month at the internal affairs body, where he is registered, for registration, reporting and participation in a preventive conversation with him.

Footnote. Article 172 as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced sixty calendar days after the day of its first official publication).

Article 173. Order of involuntary treatment for persons suffering from tuberculosis, freed from punishment

Footnote. Article 173, the title with the changes of the Law of the Republic of Kazakhstan dated April 6, 2015 № 299-V (comes into force after ten calendar days from the date of its first official publication).

1. The tuberculosis patients released from the institution who are constituting danger to people around haven't completed a full course of treatment during serving sentence after release by a court decision are subject to compulsory treatment in the specialized antitubercular organizations for the place of release.

2. Administration of the institution shall direct a submission in court at location of the institution in respect of persons mentioned in a part one of this Article on imposition of compulsory treatment to them no later than month before termination of the term of punishment.

3. Notices on release from institutions of persons, tuberculosis patients concerning which the judgment has established compulsory treatment are sent to the specialized antitubercular organizations for the place of release and law-enforcement bodies.

Footnote. Article 173 with the change made by the Law of the Republic of Kazakhstan dated 06.04.2015 № 299-V (shall be enforced after ten calendar days after day of its first official publication).

Chapter 28. CARRYING OUT OF PROBATION CONTROL OF PERSONS CONVICTED CONDITIONALLY

Article 174. procedure for carrying out probation control of persons convicted conditionally and rendering of social legal assistance to them

1. Upon recording of a person released conditionally being under probation control, probation service shall:

1) conducts a study of a personality of the convict with the establishment of the state of health, the level of his education, employment, the presence of a place of residence;

2) explains the procedure for receiving social and legal assistance, exercising and terminating probation control in relation to him, and also establishes the days for appearing at the probation service for registration;

3) explain procedure for fulfillment of obligations imposed by court, bringing to responsibility for their non-fulfillment, as well as violation of the procedure for probation control.

2. Excluded by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced sixty calendar days after the day of its first official publication).

3. A probationer has the right to apply to local executive bodies, public associations and other organizations for provision of social and legal assistance to him.

Local executive bodies, public associations and other organizations provide social and legal assistance to a probationer, in accordance with the legislation of the Republic of Kazakhstan.

4. Persons convicted conditionally shall be obliged to report to probation service on own behavior, fulfill the obligations imposed by court, appear two times per month (once for those residing in rural settlement) for registration, as well as at call in probation service. Upon non-appearance without justifiable reasons, a person convicted conditionally shall be subject to bringing.

5. For ensuring proper probation control and receipt of information on location of convicted persons, probation service shall have the right to use electronic follower arrangement the list of which shall be determined by the Government of the Republic of Kazakhstan.

6. In case of avoidance of a person convicted conditionally from probation control, probation service shall conduct initial measures on establishment of his (her) location and reasons for avoidance. In case of non-establishment of his (her) location, probation service shall make a submission in court on putting him (her) on wanted list and choosing of measure of restraint.

Footnote. Article 174 as amended by the Law of the Republic of Kazakhstan dated 30.12.2021 № 95-VII (shall be enforced sixty calendar days after the day of its first official publication).

Article 175. Calculation of the term of probation control

1. Term of probation control shall be calculated from the date of recording of a person convicted conditionally in probation service.

2. Probation control shall be carried out within the entire term established by the court verdict. Upon expiry of the term of probation control probation service shall remove a person convicted conditionally from own register.

3. Termination of probation control shall be suspended from the date of beginning of conducting initial search measures on the basis the court regulation on putting of a person convicted conditionally on wanted list, and shall be renewed under the court regulation.

Article 176. Responsibility of a person convicted conditionally

1. In case if a person convicted conditionally committed:

1) administrative infraction encroaching on public order and morality, rights of minor children, personality and in the scope of family relations for which the administration recovery was imposed on him (her);

2) intentional damage (waste) of electronic follower arrangement or did not appear for registration without justifiable reason or changed place of residence without notifying probation service;

2-1) avoidance of genomic registration ;

3) criminal offence, probation service shall make a submission in court on prolongation of the term of probation control but no more than for one year, and in respect of minor children no more than six months, as well as shall issue a warning in written form on possibility of cancellation of conditional conviction.

2. In case of non-fulfillment of obligations by a person convicted conditionally imposed on him (her) by court or of repeated commission of violations by him (her) mentioned in a part one of this Article, as well as if it avoided from probation control, probation service shall make a submission in court on cancellation of conditional conviction and fulfillment of imposed punishment by the court verdict, and in respect of minor convicted person – on prolongation of probation control but no more than for one year.

3. A person convicted conditionally, the location of whom is not established within more than fifteen days from the date of non-appearance for registration in probation service shall be recognized as the person avoiding from probation control.

4. In case of damage (waste) of electronic follower arrangement by a person convicted conditionally, probation service shall draw up the act.

Upon intentional damage (waste) of electronic follower arrangement, the persons convicted conditionally shall bear material responsibility in the manner established by the Law.

Footnote. Article 176 as amended by the Law of the Republic of Kazakhstan dated 30.12.2016 № 41-VI (shall be enforced from 01.01.2021).

FINAL PROVISIONS

Article 177. Procedure for entering of this Code into legal force

1. This Code enters into legal force from 1 January 2015 with the exception of chapter 15 that enters into legal force from 1 January 2017, as well as Article 78 and subparagraph 1) of the Annex to the Criminal Execution Code that enters into force from 1 January 2018.

2. Shall be deemed to have lost force from the date of entering of this Code into legal force:

1) Criminal Execution Code of the Republic of Kazakhstan dated 13 December 1997 (The Bulletin of the Parliament of the Republic of Kazakhstan, 1997 № 24, Article 337; 2000, № 6 , Article 141; № 8, Article 189; № 18, Article 339; 2001, № 8, Article 53; № 17-18, Article

245; № 24, Article 338; 2002, № 23-24, Article 192; 2004; № 5, Article 22; № 23, Article 139, 142; № 24, Article 154; 2005, № 13, Article 53; 2006, № 11, Article 55; 2007, № 2, Article 18; № 5-6, Article 40; № 9, Article 67; № 10, Article 69; № 17, Article 140; № 20, Article 152; 2008, № 23, Article 114; 2009, № 15-16, Article 73; № 24, Article 128, 130; 2010, № 7, Article 28; 2011, № 2, Article 19; № 19, Article 145; № 20, Article 158; 2012, № 3, Article 26; № 4, Article 32; № 5, Article 35; 2013, № 1, Article 2; № 13, Article 62; № 14, Article 72; 2014, № 1, Article 9), with the exception of Article 58 and paragraph 1 of the Annex to the Criminal Execution Code, ceasing to be in force from 1 January 2018;

2) the Law of the Republic of Kazakhstan dated 13 December 1997 “On entering of the Criminal Execution Code of the Republic of Kazakhstan into force” (The Bulletin of the Parliament of the Republic of Kazakhstan, 1997, № 24, Article 338; 2000, № 6, Article 141; 2003 № 24, Article 180; 2009, № 24, Article 128);

3) the Law of the Republic of Kazakhstan dated 13 November 2000 “On entering of provisions of the Criminal Execution Code of the Republic of Kazakhstan into legal force on preferential conditions of detention of convicted persons serving a sentence in correctional colonies of general and strict regimes, as well as in juvenile correctional facilities” (The Bulletin of the Parliament of the Republic of Kazakhstan, 2000, № 18, Article 339).

*The President
of the Republic of Kazakhstan*

*N. NAZARBAYEV
Annex to the
Criminal Execution Code
of the Republic of Kazakhstan*

The list of property that is not subject to confiscation under the court verdict

Footnote. Annex as amended by the Law of the Republic of Kazakhstan № 433-V dated 03.12.2015 (shall be enforced from 01.01.2016); dated 27.06.2022 № 129-VII (shall be enforced ten calendar days after the date of its first official publication).

The following types of property and subjects necessary for convicted persons and persons being on his (her) dependence belonging to him (her) on the basis of right of private ownership or being its share in joint property shall not be subject to confiscation:

1) single dwelling place of convicted person and his (her) family, the floor space of which doesn't exceed the standards established by housing legislation for each family member;

2) land fields on which there are house and household outbuildings not subject to confiscation, as well as land fields required for management of personal subsidiary economy;

3) from persons the main occupation of whom is farm economy, household outbuildings and livestock in a quantity required for satisfying the needs of his (her) family, as well as stock feed;

4) seeds required for regular sowing of agricultural plants;

5) subjects of household furnishing, stuff, clothes;

clothes, footwear, underwear, bedding items, kitchenware and eating utensils being in use.
Other fur valuable clothes, dinner service, subjects made from precious metals, as well as having artistic value may be confiscated;

furniture minimally required for convicted person and his (her) family members;
all the children accessories;

6) food products in a quantity required for convicted person and his (her) family until new harvest, if the main occupation of convicted person is farm economy, and in other cases – food products and money for an overall sum in amount established by the Government of the Republic of Kazakhstan;

7) fuel intended for food preparation and heating of housing unit of a family;

8) inventory (including manuals and books) required for continuation of professional knowledge of convicted persons with the exception of cases when convicted person is deprived of the right to engage in the relevant activity by the court verdict or when inventory was used by him (her) for commission of a crime;

9) vehicles specially designed for the movement of persons with disabilities, technical auxiliary (compensatory) means and special means of movement of persons with disabilities;

10) international, state and other prizes awarded to convicted person.