



## **ADMINISTRATIVE PROCEDURAL AND PROCESS-RELATED CODE OF THE REPUBLIC OF KAZAKHSTAN**

### *Unofficial translation*

Code of the Republic of Kazakhstan dated June 29, 2020 No. 350-VI.

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## **SECTION 1. GENERAL PROVISIONS Chapter 1. LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN ON ADMINISTRATIVE PROCEDURES AND LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN ON ADMINISTRATIVE LEGAL PROCEEDINGS Article 1. Legislation of the Republic of Kazakhstan on administrative procedures and legislation of the Republic of Kazakhstan on administrative legal proceedings**

1. Legislation of the Republic of Kazakhstan on administrative procedures consists of this Code and other regulatory legal acts of the Republic of Kazakhstan based on the Constitution of the Republic of Kazakhstan and generally recognized principles and standards of international law.

2. Specificities of the implementation of administrative procedures are established by the laws of the Republic of Kazakhstan.

This Code regulates the relations associated with the implementation of administrative procedures, in terms of the ones not regulated by the laws of the Republic of Kazakhstan.

3. The order of administrative legal proceedings on the territory of the Republic of Kazakhstan shall be determined by the constitutional laws of the Republic of Kazakhstan, this Code, based on the Constitution of the Republic of Kazakhstan and generally recognized principles and standards of international law.

In administrative legal proceedings, the provisions of the Civil Procedure Code of the Republic of Kazakhstan shall be applied unless otherwise provided for by this Code.

Provisions of other laws regulating the procedure of legal proceedings are subject to inclusion into this Code.

4. International contractual and other obligations of the Republic of Kazakhstan, as well as regulatory decisions of the Constitutional Court and the Supreme Court of the Republic of Kazakhstan are an integral part of administrative and administrative procedural law.

**Footnote. Article 1 as amended by the Law of the Republic of Kazakhstan dated 05.11.2022 No. 157-VII (shall be enforced from 01.01.2023).**

## **Article 2. Application of law provisions of preferential force in administrative legal proceedings**

1. The Constitution of the Republic of Kazakhstan has supreme legal force and direct effect on the entire territory of the Republic.

2. In the case of a conflict between the norms of this Code and the Constitutional law of the Republic of Kazakhstan, the provisions of the Constitutional law shall be applied.

In the case of a conflict between the provisions of this Code and other laws, the provisions of this Code shall be applied.

3. International treaties ratified by the Republic of Kazakhstan shall have priority over this Code. If an international treaty ratified by the Republic of Kazakhstan establishes other rules than those provided for by the legislation of the Republic of Kazakhstan on administrative legal proceedings, the rules of the international treaty shall be applied.

### **Article 3. Relations regulated by this Code**

1. This Code regulates relations associated with the implementation of internal administrative procedures of state bodies, administrative procedures, as well as the order of administrative legal proceedings.

2. The participants in the relations regulated by this Code are state bodies, administrative bodies, officials, as well as individuals and legal entities.

3. The procedure for the implementation of internal administrative procedures of state bodies provided for by this Code in terms of the ones not regulated by the regulatory legal acts of the Republic of Kazakhstan shall be applied in activities of:

1) the President of the Republic of Kazakhstan, state bodies and officials providing the activities of the head of state, state bodies directly subordinate and accountable to the President of the Republic of Kazakhstan;

2) the office of the First President of the Republic of Kazakhstan - Elbasy;

3) the offices of the Chambers of the Parliament of the Republic of Kazakhstan, the Central Election Commission of the Republic of Kazakhstan;

4) of the offices of the Constitutional Court of the Republic of Kazakhstan, the Supreme Judicial Council of the Republic of Kazakhstan, the Security Council of the Republic of Kazakhstan, the Supreme Court and the chanceries of the courts of the Republic of Kazakhstan;

5) The Government of the Republic of Kazakhstan, the Apparatus of the Government of the Republic of Kazakhstan, the central executive bodies of the Republic of Kazakhstan and their structural and territorial divisions;

6) the offices of local representative bodies of the Republic of Kazakhstan;

7) local executive bodies of the Republic of Kazakhstan.

4. The order of administrative procedures established by this Code shall not apply to relations regulated by:

1) criminal procedural, civil procedural legislation of the Republic of Kazakhstan and the legislation of the Republic of Kazakhstan on administrative offenses;

2) the legislation of the Republic of Kazakhstan on the Constitutional Court of the Republic of Kazakhstan, on the Supreme Judicial Council of the Republic of Kazakhstan, on the Commissioner for Human Rights in the Republic of Kazakhstan;

3) budgetary legislation of the Republic of Kazakhstan in terms of the procedure for the implementation of state and budget types of planning;

4) the Law of the Republic of Kazakhstan "On Legal Acts" in terms of the procedure for the development, presentation, discussion, enforcement and publication of legislative and other regulatory legal acts of the Republic of Kazakhstan;

5) legislation of the Republic of Kazakhstan on elections and republican referendum;

6) legislation of the Republic of Kazakhstan on foreign intelligence, counterintelligence, operational-search activities, as well as on ensuring the safety of protected persons and objects and conducting security measures;

7) legislation of the Republic of Kazakhstan on notaries in terms of performing notary acts;

8) the legislation of the Republic of Kazakhstan on the return of illegally acquired assets to the state.

The manner of administrative procedures established by this Code does not apply to the constitutional powers of the President of the Republic of Kazakhstan and the activities of the body ensuring the activities of the Head of State.

5. The effect of this Code related to the procedure for carrying out administrative procedures, with the exception of Chapters 12, 13, 14 and 15 of this Code, shall not apply to relations regulated by the legislation of the Republic of Kazakhstan on special state bodies.

6. The effect of this Code related to the order of carrying out administrative procedures, with the exception of Chapters 1, 2, 12, 13, 14 and 15 of this Code, shall not apply to relations related to the procedure for performing administrative action (inaction) not related to the adoption of administrative act.

7. The following shall not be the subject to consideration in the order of administrative legal proceedings:

1) appeals, the procedure for consideration of which is provided by the legislation of the Republic of Kazakhstan on the Constitutional Court of the Republic of Kazakhstan;

2) cases, which proceeding is provided for by the criminal procedural, civil procedural legislation of the Republic of Kazakhstan and the legislation of the Republic of Kazakhstan on administrative offenses.

**Footnote. Article 3 as amended by the Law of the Republic of Kazakhstan dated 29.12.2021 No. 91-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 05.11.2022 No. 157-VII (shall be enforced from 01.01.2023); dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication); dated 12.07.2023 No. 23-VIII (effective ten calendar days after the date of its first official publication).**

#### **Article 4. Basic concepts used in this Code**

1. The concepts contained in this Code shall be used in the following meaning:

1) application - one of the forms of appeal containing a petition of a participant in an administrative procedure for assistance in the realization of his rights, freedoms and legitimate interests or the rights, freedoms and legitimate interests of others;

2) applicant - a person who has filed an appeal with an administrative body, an official to carry out an administrative procedure, as well as a person in respect of whom administrative act is adopted, administrative action (inaction) is performed (addressee of administrative act);

3) burdening administrative act - an act denying implementation, restricting, terminating the right of a participant in an administrative procedure or imposing an obligation on him (her), as well as in other way aggravating his (her) situation;

4) administrative act - a decision made by an administrative body, an official in public law, realizing the rights and obligations of a certain person or an individually defined circle of persons established by the laws of the Republic of Kazakhstan;

5) administrative action (inaction) - an action (inaction) of an administrative body, an official in public law relations, which is not administrative act;

6) administrative discretion - the power of an administrative body, an official to take, within the purposes and limits established by the legislation of the Republic of Kazakhstan, one of the possible decisions based on an assessment of their legality;

7) administrative body - a state body, a local self-government body, a state legal entity, as well as another organization that, in accordance with the laws of the Republic of Kazakhstan, are empowered to adopt administrative act, perform administrative action (inaction);

8) administrative procedure - the activity of an administrative body, an official on the consideration of an administrative case, the adoption and execution of a decision on it, carried out on the basis of an appeal or on their own initiative, as well as activities carried out in the manner of a simplified administrative procedure;

9) administrative lawsuit (lawsuit) - a claim filed with a court for the purpose of protecting and restoring violated or disputed rights, freedoms or legitimate interests arising from public law relations;

10) administrative case - materials recording the course and results of the implementation of the administrative procedure and (or) consideration of a public law dispute in court;

11) competitive environment - market entities, with the exception of quasi-public sector entities;

**Note!**

**The effect of subparagraph 12) is suspended until 01.01.2026 in accordance with Article 175 of this Code.**

12) video message - an individual or collective statement, a complaint in a video format sent to an administrative body, an official by the State Corporation "Government for Citizens" ;

13) video conferencing - a communication service using information and communication technologies for interactive interaction of several remote subscribers in real time with the ability to exchange audio and video information;

14) monitoring of the transferred functions (hereinafter referred to as the Monitoring) - a set of measures aimed at the systematic and continuous collection, processing, analysis and evaluation of data on the implementation of the functions of central and (or) local executive bodies transferred to the competitive environment;

14-1) data – information in a formalized form suitable for processing;

14-2) authorized data management body – the central executive body responsible for the management and intersectoral coordination of data management;

15) defendant - an administrative body or official against whom a lawsuit is filed in court;

15-1) authorized body for project management - the central executive body that manages and intersectoral coordination in the field of project management;

**Note!**

**The effect of subparagraph 16) is suspended until 01.01.2026 in accordance with Article 175 of this Code.**

16) appeal - a statement or complaint sent to an administrative body or official in a written (paper and (or) electronic) or oral form, as well as in the form of video conferencing, video appeal;

17) registration of the appeal - fixing information on the receipt and consideration of the appeal and their reflection in the state legal statistical reporting;

18) acceptance of an appeal - an action by an administrative body, an official to accept an appeal from a participant in an administrative procedure;

19) consideration of an appeal - taking by an administrative body, an official within its competence of a decision in accordance with the legislation of the Republic of Kazakhstan;

20) registration of the appeal - fixing in the accounting information document the brief data on the content of the appeal and assigning a registration number to each received appeal;

21) favorable administrative act - an act that implements the right of a participant in an administrative procedure or terminates the obligation imposed on him, as well as otherwise improves his position;

22) service information - information created, processed and transmitted during the performance of state functions, the possessor, owner or user of which is the state;

23) official - a person who, in accordance with the laws of the Republic of Kazakhstan, is empowered to adopt administrative act, perform administrative action (inaction);

24) the authorized body in the field of development of the public administration system - the central executive body responsible for the management and inter-sectoral coordination of

the functional analysis of the activities of public administration bodies and the transfer of the functions of central and (or) local executive bodies to a competitive environment;

25) state body - an organization of state power that, on behalf of the state, on the basis of the Constitution of the Republic of Kazakhstan, laws and other regulatory legal acts of the Republic of Kazakhstan, carries out functions on:

issuance of acts defining generally binding rules of conduct;

management and regulation of socially significant public relations;

control over compliance with the generally binding rules of conduct established by the state;

26) internal administrative procedure of state bodies - the sole administrative activity of an official or the activity of a collegial state body related to the organization of a state body, the internal procedure for consideration, passage of official documents and internal control over their execution, a procedure regulating information exchange between state bodies, their structural and territorial divisions and officials, as well as the transfer of state functions to a competitive environment;

27) optimization - a set of measures aimed at reducing the number of staff, reducing and (or) redistributing the costs of central and (or) local executive bodies, including those related to the transfer of functions to a competitive environment;

28) performers of the functions of central and (or) local executive bodies - business entities and their associations, self-regulatory and non-governmental organizations performing the functions of central and (or) local executive bodies in the manner prescribed by this Code;

29) users of functions of central and (or) local executive bodies (hereinafter referred to as the Users) - individuals and legal entities;

30) full transfer of functions of central and (or) local executive bodies - exclusion of functions from the competence of central and (or) local executive bodies and transfer of their implementation to a competitive environment through self-regulation based on mandatory membership (participation), or at the expense of users;

31) outsourcing the functions of central and (or) local executive bodies (hereinafter referred to as the Outsourcing) - transfer of the functions of central and (or) local executive bodies to a competitive environment for their implementation by concluding contracts;

32) request - a request from a participant in an administrative procedure to provide information on issues of interest of a personal or public nature;

33) plaintiff - a person who has applied to the court in defense of his violated or disputed rights, freedoms, legitimate interests, or a person in whose interests a lawsuit is filed by a prosecutor, another person endowed with such powers by the laws of the Republic of Kazakhstan;

34) presiding judge - a judge directing a collegial review of administrative case or considering administrative case individually;

35) proposal - a recommendation of a participant in the administrative procedure to improve laws and other regulatory legal acts of the Republic of Kazakhstan, the activities of state bodies, the development of public relations, the improvement of socio-economic and other areas of activity of the state and society;

36) response - an expression by a participant in the administrative procedure of his (her) attitude to the state domestic and foreign policy, as well as to events and phenomena of a public nature;

37) message - notification by a participant in an administrative procedure about violation of laws and other regulatory legal acts of the Republic of Kazakhstan, shortcomings in the work of state bodies, local authorities, legal entities with one hundred percent participation of the state and their officials;

37-1) digital transformation – a set of measures that includes the introduction of digital technologies, reengineering and data use;

38) complaint - one of the forms of appeal containing a requirement of a participant in an administrative procedure to restore or protect the rights, freedoms or legitimate interests of his (her) or other persons that have been violated by administrative act, administrative action (inaction);

39) internal control - control carried out by a state body over the implementation of its structural and territorial divisions, subordinate state bodies and organizations, officials of decisions made by a state body, as well as the requirements of the legislation of the Republic of Kazakhstan.

2. Other special concepts shall be used in the meanings defined in the relevant articles of this Code, as well as other laws of the Republic of Kazakhstan.

**Footnote. Article 4 as amended by the Law of the Republic of Kazakhstan dated 02.01.2021 No. 399-VI (shall be enforced ten calendar days after the day of its first official publication); dated 14.07.2022 No. 141-VII (shall be enforced ten calendar days after the date of its first official publication); dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).**

## **Chapter 2. THE OBJECTIVES AND PRINCIPLES OF ADMINISTRATIVE PROCEDURES AND ADMINISTRATIVE LEGAL PROCEEDINGS Article 5. The objectives of administrative procedures and administrative legal proceedings**

1. The objectives of administrative procedures shall be:  
full realization of public rights, freedoms and interests of individuals and legal entities;  
achieving a balance of private and public interests in public law relations;  
ensuring effective and transparent public administration, including through the participation of persons in managerial decision-making;  
digital transformation of public administration;  
strengthening the rule of law in public law.



2. The objective of administrative legal proceedings are fair, impartial and timely resolution of administrative cases in order to effectively protect and restore violated or disputed rights, freedoms and legitimate interests of individuals, rights and legitimate interests of legal entities in public law relations.

**Footnote. Article 5 as amended by the Law of the Republic of Kazakhstan dated 14.07.2022 No. 141-VII (shall be enforced ten calendar days after the date of its first official publication).**

#### **Article 6. The principles of administrative procedures and administrative legal proceedings and their meaning**

1. Administrative procedures and administrative legal proceedings shall be carried out based on the principles set out in this chapter.

2. The principles of administrative procedures established in this chapter shall not be exhaustive and may not be an obstacle to the application of other principles of law.

3. The principles of civil proceedings shall be applied in administrative legal proceedings, if it does not contradict the principles set out in this chapter.

4. Violation of the principles of administrative procedures and administrative legal proceedings, depending on its nature and materiality, shall entail the recognition of administrative acts, administrative actions (inaction) as illegal, as well as the cancellation of the issued judicial acts.

#### **Article 7. Principle of legality**

1. Administrative body, an official shall carry out administrative procedures within their competence and in accordance with the Constitution of the Republic of Kazakhstan, this Code and other regulatory legal acts of the Republic of Kazakhstan.

2. During consideration and resolving administrative cases, the court is obliged to strictly comply with the requirements of the Constitution of the Republic of Kazakhstan, constitutional laws, this Code, other regulatory legal acts subject to the application of international treaties of the Republic of Kazakhstan.

3. Courts are not entitled to apply laws and other regulatory legal acts that infringe on the rights and freedoms of a person and citizen enshrined in the Constitution of the Republic of Kazakhstan. If the court finds that a law or other regulatory legal act subject to application infringes on the rights and freedoms of a person and citizen enshrined in the Constitution, it is obliged to suspend the proceedings in an administrative case and apply to the Constitutional Court of the Republic of Kazakhstan with a recommendation on recognition of this act unconstitutional. Upon receipt by the court of the decision of the Constitutional Court of the Republic of Kazakhstan, the proceedings in the case are resumed.



4. The decisions of the courts authorized to consider administrative cases based on a law or other normative legal act recognized as unconstitutional are subject to cancellation.

5. In the absence of legal norms governing a disputed legal relationship, the court shall apply the legal norms regulating similar relations, and in the absence of such norms, resolve the dispute based on the general principles and meaning of the Republic of Kazakhstan legislation.

**Footnote. Article 7 as amended by the Law of the Republic of Kazakhstan dated 05.11.2022 No. 157-VII (shall be enforced from 01.01.2023).**

### **Article 8. Principle of justice**

1. During consideration an administrative case, an administrative body, an official, and a court are obliged, while maintaining objectivity and impartiality, to provide each of the participants in administrative case with equal opportunities and conditions for the exercise of their rights to a comprehensive and complete investigation of the circumstances of the administrative case.

2. If the law or the agreement of the parties to the dispute provides for the resolution of the relevant issues by the court, the court is obliged to resolve these issues based on the criteria of justice and reasonableness.

### **Article 9. Protection of rights, freedoms, and legitimate interests**

1. Everyone has the right, in accordance with the procedure established by this Code, to apply to an administrative body, to an official or to a court for the protection of violated or disputed rights, freedoms, or legitimate interests.

Waiver of the right to appeal to an administrative body, to an official or to a court shall be invalid.

2. State bodies within their competence, individuals and legal entities in the manner prescribed by this Code, shall have the right to apply to the court with a lawsuit to protect the violated or disputed legitimate interests of other persons or an indefinite circle of persons.

The prosecutor shall have the right to apply to the court with a lawsuit in order to carry out the duties assigned to him in the manner prescribed by this Code.

3. If the law establishes a pre-trial procedure for resolving a dispute, an appeal to the court may be filed after observing this procedure.

4. The jurisdiction provided for by the law may not be changed to anyone without his (her) consent.

5. Compulsion to waive the right to appeal to an administrative body, to an official or to a court is illegal and entails liability established by the laws of the Republic of Kazakhstan.

### **Article 10. Proportionality**

1. During exercising administrative discretion, an administrative body, an official shall ensure a fair balance of interests of a participant in an administrative procedure and society.

Therewith the administrative act, administrative action (inaction) must be proportionate, that is, suitable, necessary, and proportional.

2. Administrative act, administrative action (inaction) shall be considered suitable if they are acceptable to achieve the goal established by the laws of the Republic of Kazakhstan.

Administrative act, administrative action (inaction) shall be considered necessary if to the least extent restricts the rights, freedoms, and legitimate interests of a participant in the administrative procedure.

Administrative act, administrative action (inaction) shall be considered proportional if the public benefit obtained because of restrictions on the rights, freedoms, and legitimate interests of a participant in the administrative procedure is greater than the harm caused by these restrictions.

#### **Article 11. Frameworks of administrative discretion exercise**

1. An administrative body, an official is obliged to exercise administrative discretion within the limits established by the legislation of the Republic of Kazakhstan.

2. The adoption of administrative act and (or) the commission of administrative action (inaction) in the exercise of administrative discretion must comply with the purpose of this authority.

#### **Article 12. Principle of priority of the rights**

All doubts, contradictions, and ambiguities of the legislation of the Republic of Kazakhstan on administrative procedures shall be interpreted in favor of a participant in the administrative procedure.

#### **Article 13. Protection of the right to trust**

1. Confidence of a participant in an administrative procedure in the activities of an administrative body, an official shall be protected by the laws of the Republic of Kazakhstan.

2. Administrative act, administrative action (inaction) shall be considered legal and justified until the administrative body, official or court establishes the opposite in accordance with the legislation of the Republic of Kazakhstan.

3. An illegal administrative act adopted through the fault of an administrative body, an official, as well as an illegal administrative action (inaction) committed due to the fault of an administrative body, an official, may not entail burdensome consequences for a participant in an administrative procedure.

4. The right to trust may not be a justification for committing illegal actions (inaction).

#### **Article 14. Prohibition of abuse of formal requirements**

An administrative body, an official shall be prohibited from refusing to implement, restrict, deny the right of a participant in an administrative procedure, as well as impose on him (her) a duty in order to comply with requirements if it is not established by the legislation of the Republic of Kazakhstan.

#### **Article 15. Presumption of reliability**

1. During carrying out an administrative procedure, materials, objects, documents and information provided by a participant in the administrative procedure shall be considered reliable until the administrative body, an official establishes the contrary.

2. An administrative body, an official is obliged to independently verify the authenticity of materials, objects, documents and information in case of doubt about their authenticity.

#### **Article 16. Active role of the court**

1. Administrative legal proceedings shall be carried out based on the active role of the court.

2. The court, not limited to explanations, statements, petitions of the participants in the administrative process, the arguments presented by them, evidence and other materials of the administrative case, comprehensively, fully and objectively shall examine all the factual circumstances that are important for the correct resolution of the administrative case.

The judge has the right to express his preliminary legal opinion on legal basis related to the factual and (or) legal aspects of the administrative case.

3. The court, on its own initiative or a motivated petition of the participants in the administrative process, shall collect additional materials and evidence, and shall perform other actions aimed at solving the objectives of administrative legal proceedings.

#### **Article 17. Reasonable terms of administrative legal proceedings**

1. Administrative legal proceedings, including the production of certain procedural actions, shall be carried out within reasonable terms.

2. Consideration and resolution of certain categories of administrative cases shall be carried out within the terms established by this Code.

3. During determination reasonable terms, such circumstances shall be taken into account as the legal and actual complexity of the administrative case, the behavior of the participants in the administrative process, expressed in the degree of use of procedural rights and the performance of procedural duties, procedural sufficiency and effectiveness of the court actions, carried out in order to promptly consider the administrative case.

#### **Article 18. Obligation of judicial acts**

1. The court of first instance shall adopt judicial acts on administrative cases in the form of decisions and rulings.

The courts of appeal, cassation instances shall adopt judicial acts in the form of decrees and rulings.

2. Judicial acts that have entered into legal effect, as well as orders, demands, orders, summons, inquiries and other appeals of courts and judges in the administration of justice are binding on all state bodies, local self-government bodies, legal entities, officials, individuals and are subject to execution throughout territory of the Republic of Kazakhstan.

Judicial acts based on a law or other regulatory legal act, which is recognized by the Constitutional Court of the Republic of Kazakhstan as unconstitutional, are not subject to execution.

3. Failure to comply with judicial acts, as well as court requirements, shall entail the application of measures of procedural enforcement provided for by this Code, and the liability, prescribed by the law.

4. The binding nature of a judicial act shall not deprive interested parties who did not participate in the administrative process of the opportunity to apply to the court for the protection of violated or disputed rights, freedoms, and legitimate interests.

5. Judicial acts shall be sent by the court to the parties to the administrative process within three working days from the date of final production.

**Footnote. Article 18 as amended by the Law of the Republic of Kazakhstan dated 20.12.2021 No. 83-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 05.11.2022 No. 157-VII (shall be enforced from 01.01.2023).**

### **Chapter 3. ADMINISTRATIVE BODY, OFFICIAL, AND PARTICIPANTS OF ADMINISTRATIVE PROCEDURES Article 19. Legal status and capacity in administrative procedure**

1. The ability to have rights and obligations in an administrative procedure shall be recognized equally for all administrative bodies, officials, as well as individuals and legal entities.

2. The ability to exercise rights and obligations in the administrative procedure by their actions shall be recognized equal for all administrative bodies, officials, as well as individuals and legal entities in accordance with the legislation of the Republic of Kazakhstan.

#### **Article 20. Administrative body, official**

1. Administrative body, official shall:

1) accept and register appeals, facilitate their execution and the documents attached to them, provide an opportunity to eliminate formal errors and supplement the attached documents;

- 2) explain to the participant of the administrative procedure his (her) rights and obligations on issues related to the implementation of the administrative procedure;
- 3) request and receive, in the manner prescribed by the legislation of the Republic of Kazakhstan, the information necessary for the implementation of the administrative procedure ;
- 4) notify the participant of the administrative procedure in advance about the place and time of the hearing;
- 5) hear a participant in the administrative procedure before making a decision on the administrative procedure, with the exception of the cases provided for by this Code;
- 6) bring the administrative act to the attention of the participant in the administrative procedure or their representatives in the manner prescribed by this Code;
- 7) refuse to exercise the rights of a participant in an administrative procedure in the cases and on the basis established by this Code;
- 8) provide assistance, within the limits of their competence, to administrative bodies, officials in the cases provided for by this Code;
- 9) exercise other powers provided for by the legislation of the Republic of Kazakhstan.

2. The state body, local self-government body, legal entities with one hundred percent participation of the state are obliged to provide state legal statistical information on the number of received, considered applications, messages, responses, proposals, requests and the results of their consideration within the timeframe and volumes established by the state body carrying out within its competence the statistical activity in the field of legal statistics and special accounting.

#### **Article 21. Participants in the administrative procedure**

1. The applicant and the interested party shall be recognized as participants in the administrative procedure.
2. Legal succession shall be carried out in the manner established by the civil legislation of the Republic of Kazakhstan.

#### **Article 22. Applicant**

1. An appeal to an administrative body, to an official may be submitted by one or more persons (collective appeal).

If the administrative procedure is initiated by filing an appeal, then the interested parties have the right to enter the already started administrative procedure. In this case, it is not required to initiate a separate administrative procedure for the appeal of each of these persons.

2. Applicant has the right to:

- 1) receive from an administrative body, an official the explanation of his rights and obligations on issues related to the implementation of the administrative procedure;

2) be heard before making a decision on the administrative procedure, except for the cases provided for by this Code;

3) get acquainted with the administrative case, make extracts and make copies both during and after the consideration of the administrative case;

4) submit petitions;

5) file a complaint against administrative act, administrative action (inaction);

6) submit a repeated appeal on an issue already considered by an administrative body, an official in the manner prescribed by this Code;

7) during the appeal, present evidence and participate in their research, including giving explanations, submitting material evidence and other documents;

8) terminate the administrative procedure if the procedure was initiated upon his request;

9) speak in the administrative procedure in the native language or the language that he (she) speaks, use the services of an interpreter;

10) challenge in the cases provided for by this Code;

11) have a representative;

12) demand the payment of compensation in the cases provided for by this Code;

13) exercise other rights established by this Code and other laws of the Republic of Kazakhstan.

3. Foreigners, stateless persons and foreign legal entities shall have rights and bear obligations on an equal basis with citizens and legal entities of the Republic of Kazakhstan unless otherwise provided by the Constitution, laws of the Republic of Kazakhstan and international treaties.

### **Article 23. Interested party of the administrative procedure**

1. Interested party is a party whose rights, freedoms or legitimate interests are or may be affected by administrative act, administrative action (inaction).

2. Interested party shall exercise the rights provided for in Article 22 of this Code, with the exception of subparagraph 8) of the second part of Article 22 of this Code.

### **Chapter 4. COURT Article 24. Composition of the court**

1. Administrative cases in the court of first instance shall be considered and resolved solely by the judge acting on behalf of the court.

2. excluded by the Law of the Republic of Kazakhstan dated 20.03.2021 No. 20-VII (shall be enforced from 01.07.2021).

3. Administrative cases provided for in part one of Article 105 of this Code shall be considered and resolved in the Supreme Court of the Republic of Kazakhstan solely by judge according to the rules of the court of first instance.

4. Administrative cases in the court of appeal shall be considered by a collegial composition of odd number (at least three) judges, one of whom is the presiding judge. Solely judge shall consider individual complaints against rulings issued by the courts.

5. Administrative cases in a court of cassation shall be considered by a collegial composition of odd number (at least three) judges of the Supreme Court of the Republic of Kazakhstan chaired by the chairman of the judicial collegium or one of the judges on his behalf.

6. Consideration of administrative cases on revising decisions of the court of the cassation instance shall be carried out in a collegial composition in odd number (at least seven) judges chaired by the Chairman of the Supreme Court of the Republic of Kazakhstan or one of the judges on his behalf.

7. The composition of the court for the consideration of administrative case shall be formed taking into account the workload and specialization of judges in a manner that excludes the influence on its formation of persons interested in the outcome of the trial, including using an automated information system.

**Footnote. Article 24 as amended by the Law of the Republic of Kazakhstan dated 20.03.2021 No. 20-VII (shall be enforced from 01.07.2021).**

#### **Article 25. Procedure for resolving issues by collegial composition of the court. Dissent opinion**

1. All judges, when considering and resolving administrative cases by collegial composition of the court, shall exercise equal rights. The judges shall resolve all issues arising during the consideration and resolution of administrative case by a collegial composition of the court by a majority vote. None of the judges shall have the right to abstain from voting. The presiding judge shall vote last.

2. A judge who disagrees with the opinion of the majority of judges voted for the adoption of a judicial act, or who voted for an adopted judicial act, but remained in the minority during voting on any other issue or on the reasoning of the adopted judicial act, shall be obliged to sign the judicial act and shall have the right to state in writing form his (her) dissent opinion.

3. The judge must state his dissent opinion within a period not exceeding ten working days from the date of the decision on the administrative case. The dissent opinion of the judge shall be attached to the materials of the administrative case, but when the decision taken in the administrative case is announced, it shall not be announced, and also shall not be subject to publication.

#### **Chapter 5. PARTICIPANTS IN THE ADMINISTRATIVE PROCESS Article 26. Composition of the administrative process**

1. The participants in the administrative process are plaintiff, defendant, interested party, and prosecutor.



2. Representation in administrative legal proceedings shall be carried out according to the rules of the Civil Procedure Code of the Republic of Kazakhstan.

### **Article 27. Administrative procedural legal status and administrative procedural legal capacity**

1. The ability to have procedural rights and to bear procedural obligations in administrative legal proceedings (administrative procedural legal capacity) shall be recognized equally for all individuals and legal entities, administrative bodies, officials, if according to this Code, they have the right to judicial protection of their rights, freedoms and legal interests.

2. The ability by their actions to exercise procedural rights, including entrusting the conduct of administrative case to a representative, and to perform procedural duties in administrative legal proceedings (administrative procedural legal capacity) shall belong to individuals who have reached eighteen years of age and are not recognized as incapacitated, to legal entities, administrative bodies, officials.

3. Minors emancipated on the basis provided for by law shall personally exercise their procedural rights and procedural duties from the moment of emancipation.

4. In cases provided for by the laws of the Republic of Kazakhstan, in administrative cases arising from public law relations, minors between the ages of fourteen and eighteen shall have the right to personally defend their rights, freedoms, and legitimate interests. The court shall have the right to involve the legal representatives of the minor in such administrative cases.

5. The rights, freedoms, and legitimate interests of a minor between the ages of fourteen and eighteen, as well as a person recognized as having limited legal capacity, shall be protected in court by their legal representatives, but the court has the right to involve the minor or a person recognized as having limited legal capacity in such administrative cases, and also the prosecutor.

6. The rights, freedoms, and legal interests of a minor under the age of fourteen, as well as of a person recognized as incapable, shall be protected in court by their legal representatives, the prosecutor.

### **Article 28. Plaintiff**

1. Plaintiff shall have the right to:

1) get acquainted with the materials of the administrative case, make extracts from them and make copies;

2) present evidence and participate in their research;

3) ask questions to other participants in the administrative process, witnesses, experts and specialists;

4) give oral and written explanations, testimonies and give reasons for the filed lawsuit;

5) give their arguments on all issues arising in the course of administrative legal proceedings;

6) submit motions and challenges, give testimony, explanations on all issues arising during the consideration of an administrative case;

7) have the free assistance of an interpreter, have a representative;

8) know of the decisions taken affecting his interests, and receive copies of procedural decisions related to the filed lawsuit;

9) participate in the consideration of administrative case in any court;

10) object to the motions and arguments of other participants in the administrative proceeding;

11) speak in judicial pleadings, file complaints against judicial acts;

12) get acquainted with the protocol of the court session and submit comments on it;

13) know about the complaints, petitions and protests of the prosecutor filed in the administrative case and submit objections to them;

14) participate in judicial consideration of the submitted complaints, motions and protests of the prosecutor.

2. Plaintiff is obliged to declare to the court on the actual circumstances of the administrative case fully and truthfully, to speak out, or submit to the court documents that refute the facts asserted by other participants in the administrative process. Non-fulfillment by the plaintiff of procedural obligations entails the onset of procedural consequences provided for by this Code.

3. Plaintiff may also exercise other rights and bear other obligations provided for by the legislation of the Republic of Kazakhstan on administrative legal proceedings.

## **Article 29. Defendant**

1. Defendant, in order to protect his (her) interests in connection with the lawsuit filed against him (her), shall have the right to:

1) know the essence of the lawsuit;

2) object to the lawsuit;

3) get acquainted with the materials of the administrative case, make extracts from them and make copies;

4) present evidence and participate in their research;

5) ask questions to other participants in the administrative process, witnesses, experts and specialists;

6) give their arguments on all issues arising in the course of administrative legal proceedings;

7) file motions and challenges, give testimony, explanations and give arguments on the merits of the filed lawsuit;

8) use the free assistance of an interpreter, have a representative;

9) know of the decisions taken affecting his interests, and receive copies of procedural decisions related to the filed lawsuit;

10) participate in the consideration of a lawsuit in any court instance;

11) object to petitions and arguments of other participants in the administrative proceeding;

12) speak in judicial pleadings, file complaints against judicial acts;

13) participate in the consideration of a lawsuit in any court instance;

11) object to petitions and arguments of other participants in the administrative proceeding;

12) speak in judicial pleadings, file complaints against judicial acts.

2. Defendant is obliged to declare to the court about the actual circumstances of the administrative case completely and truthfully, to speak out, or submit to the court the administrative case, documents that refute the facts, asserted by other participants in the administrative process. The failure of defendant to fulfill procedural obligations shall entail the occurrence of procedural consequences provided for by this Code.

3. Replacement of the defendant shall be allowed before the start of consideration and resolution of the administrative case on the merits. The court, having established that the lawsuit was filed against the improper person who should be responsible for the lawsuit, shall summon the plaintiff, explain the consequences of filing the lawsuit against the improper defendant and, with the consent of the plaintiff, shall allow the replacement of the improper defendant with the proper one. After the replacement of the improper defendant, the preliminary hearing and consideration of the administrative case in the court session shall be carried out from the very beginning. The term for consideration of administrative case shall be calculated from the date of appointment of administrative case for proceedings in a court session.

4. If the plaintiff does not agree to the replacement of the defendant by another person, the court may involve this person as a second defendant, without the plaintiff's consent.

5. Defendant may also exercise other rights and bear other obligations provided for by the legislation of the Republic of Kazakhstan on administrative legal proceedings.

### **Article 30. Interested party of the administrative process**

1. The person whose rights, freedoms, and legitimate interests are or may be affected by a judicial act shall be recognized as an interested party.

2. Interested parties shall have the right, prior to the adoption of the judicial act, which ends the consideration and resolution of the administrative case in the court of first instance, on their own initiative, to enter into the administrative case on the side of the plaintiff or the defendant, if this judicial act may affect their rights, obligations and legitimate interests. Interested parties may be involved in the administrative case on the initiative of the court or at the request of the participants in the administrative process.

3. Interested parties shall exercise procedural rights and have procedural obligations of the plaintiff or defendant, with the exception of the right to change the basis or subject matter of the lawsuit, withdraw the lawsuit, recognize the lawsuit, or conclude an agreement on conciliation, mediation, or the settlement of a dispute in a participatory procedure.

### **Article 31. Prosecutor**

1. The highest supervision over the legality of judicial acts that have come into legal effect in administrative cases on behalf of the state shall be carried out by the General Prosecutor of the Republic of Kazakhstan both directly and through prosecutors subordinate to him.

2. In order to carry out the tasks assigned to him (her) by law, the prosecutor shall enter the process to give an opinion on administrative cases arising from tax, customs, budget relations, relations in the field of protection, restoration and conservation of the environment, use and reproduction of natural resources in the implementation of economic and other activities related to the use of natural resources and the impact on the environment, in administrative cases on appealing the actions (inaction) of the state court officer in the execution of executive documents on collection from the state and to the state revenue, with the protection of the electoral rights of citizens and public associations participating in elections, republican referendum, as well as when administrative act, administrative action (inaction) may restrict the rights, freedoms and legal interests of persons who, due to physical, mental and other circumstances, may not independently exercise their protection, or an unlimited number of persons, or when the need for the participation of a prosecutor is recognized by court.

The specified powers of the prosecutor shall be ensured by timely notification by the court of all administrative cases assigned for consideration by posting relevant information on the court Internet resource.

Failure to appear of the prosecutor notified of the time and place of the consideration of the administrative case shall not be an obstacle to the proceedings in the administrative case.

3. The prosecutor, in accordance with the legislation of the Republic of Kazakhstan, has the right to file a lawsuit with the court to restore violated rights and protect interests of:

1) individuals who, due to physical, mental and other circumstances, may not independently exercise their protection;

2) individuals, society and the state, if it is necessary to prevent irreversible consequences for the life, health of people or the safety of the Republic of Kazakhstan.

In the cases provided for in subparagraph 2) of this part, a lawsuit may be filed by a prosecutor in court regardless of the request and lawsuit of the person.

4. If plaintiff does not support the requirements stated by the prosecutor, the court shall return the lawsuit, if the rights, freedoms and legitimate interests of the interested parties are not affected.

5. Prosecutor, in the event that an administrative body, an official rejects a protest against administrative act that does not comply with the law, as well as administrative action (inaction), shall file a lawsuit.

6. The prosecutor who filed the lawsuit shall exercise all procedural rights, and shall bear all the procedural obligations of the plaintiff, except for the right to conclude an agreement on conciliation, mediation or to settle a dispute in a participatory procedure. The refusal of the prosecutor from a lawsuit filed in defense of the interests of another person shall not deprive this person of the right to demand the consideration of administrative case on the merits after he has paid a state fee in accordance with the requirements of the Code of the Republic of Kazakhstan "On taxes and other obligatory payments to the budget" (Tax Code).

7. The prosecutor representing the interests of the prosecution authorities in a dispute considered by the court as a plaintiff or a defendant shall exercise the procedural rights and obligations of a party. The prosecutor shall not give an opinion on administrative case if the administrative case was initiated based on his lawsuit.

## **Chapter 6. OTHER PERSONS PARTICIPATING IN THE ADMINISTRATIVE CASE Article 32**

### **. Witness**

1. Witness shall be a person who may know of any information about the factual circumstances that are important for the consideration and resolution of an administrative case

2. They are not liable to questioning as witness:

1) judge - on the circumstances of the case, in the consideration of that he took part;

2) arbitrator, jury member - on the circumstances that became known to them in connection with the performance of their duties;

3) representatives in a civil case or representatives, defenders in a criminal case, in a case of an administrative offense - on the circumstances that became known to them in connection with the performance of the duties of a representative or defender;

4) clergyman - on the circumstances known to him from confession;

5) a person who, due to his (her) young age or mental or physical disabilities, is unable to correctly perceive the circumstances that are important for the administrative case and to testify on them;

6) mediator - on the circumstances that became known to him in connection with the mediation, except for the cases provided for by the laws of the Republic of Kazakhstan;

7) participant of the national preventive mechanism - on the circumstances that became known to him in connection with the implementation of his activities, with the exception of cases posing a threat to national security;

8) other persons specified in the laws of the Republic of Kazakhstan.

3. Witness has the right to:

1) refuse to testify against himself (herself), a spouse and close relatives, the circle of which is determined by law;

2) testify in their own language or in the language they speak;

3) use the free assistance of an interpreter in administrative legal proceedings;

4) declare a challenge to the translator participating in his interrogation;

5) file complaints on actions (inaction) of an administrative body, an official, file petitions regarding his (her) rights, freedoms and legitimate interests.

4. Witness is obliged to:

1) appear upon a court summons;

2) truthfully report everything known in the administrative case and answer the questions raised;

3) comply with the established procedure during the hearing and court session.

5. Information provided by a witness shall not be evidence if he (she) cannot indicate the source of his (her) knowledge.

6. If it is impossible for a witness to appear at the hearing, he (she) has the right to testify in writing. In this case, the witness must authenticate each page with his signature. The signature of the official indicating the date of signing shall confirm the testimony, certified by the signature of the witness.

7. Person summoned as a witness is obliged to appear in court at the appointed time, with the exception of the case provided for in part eight of this Article, to provide information on the merits of the administrative case under consideration that is known to him personally, to answer additional questions from the court and participants in the administrative proceeding.

8. Witness may be questioned by a court at the place of his stay if, due to illness, old age, disability or other valid reasons, he is not able to appear in court upon summons.

9. If a witness cannot appear in court upon summons, he (she) is obliged to notify the court in advance, indicating the reasons for failure to appear.

10. In administrative legal proceedings, a witness for giving deliberately false testimony and refusal to testify on basis not provided for by law shall bear criminal liability established by law.

11. Witness is entitled to reimbursement of the costs associated with the summons to court. The amount of expenses and compensation shall be determined by the legislation of the Republic of Kazakhstan.

### **Article 33. Expert**

1. Expert is a person who is not interested in an administrative case, who has special scientific knowledge and who, in the cases and in the procedure provided for by this Code and the Civil Procedure Code of the Republic of Kazakhstan, has been instructed by the court

to conduct a forensic examination and give an opinion on the issues posed to him (her) and requiring special scientific knowledge, in order to clarify the circumstances in a specific administrative case.

2. The court shall appoint a forensic examination at the request of the participants in the administrative proceeding or on its own initiative.

3. Expert has the right to:

1) get acquainted with the materials of the administrative case related to the subject of the forensic examination;

2) submit petitions for the provision of additional materials necessary for giving an opinion;

3) participate, with the permission of the court, in the production of procedural actions, in the court session and to ask the participants in the administrative case questions related to the subject of the forensic examination;

4) get acquainted with the protocol of the procedural action where he participated, as well as in the relevant part with the protocol of the court session and make comments to be included in the protocols regarding the completeness and correctness of recording his actions and testimony;

5) in agreement with the court that appointed the forensic examination, give an opinion on the circumstances revealed in the course of the forensic examination that are important for the administrative case, including on circumstances that go beyond the formulated questions;

6) present an opinion and testify in the native language or the language that he speaks; use the free assistance of a translator; challenge the translator;

7) appeal against decisions, actions of persons violating procedural rights in the course of a forensic examination;

8) receive reimbursement of expenses incurred in the production of a forensic examination, and remuneration for the work performed, if the production of a forensic examination is not part of his official duties.

4. Expert is not entitled to:

1) negotiate with the participants in the administrative process on issues related to the production of forensic examination, without the knowledge of the court;

2) independently collect materials for research;

3) conduct research that may lead to the complete or partial destruction of objects or change their appearance or basic properties, if there was no special permission from the court.

5. Expert is obliged to:

1) appear upon a court summons;

2) conduct a comprehensive, complete and objective study of the objects presented to him, give a reasoned and objective written opinion on the questions posed;

3) refuse to give an opinion and draw up a reasoned written message on the impossibility of giving an opinion and send it to the court;



- 4) give testimony on issues related to the research conducted and this conclusion;
- 5) ensure the safety of the objects submitted for research;
- 6) not to disclose information about the circumstances of the administrative case and other information that became known to him in connection with the production of a forensic examination;
- 7) submit to the court an estimate of expenses and a report on expenses incurred in connection with the production of a forensic examination.

6. For giving a misleading conclusion, the expert shall bear criminal responsibility established by law.

7. Expert who is an employee of the forensic examination bodies shall be considered, by the nature of his activity, familiar with his rights and obligations and warned of criminal liability for giving a misleading opinion.

### **Article 34. Specialist**

1. As a specialist, the court may involve an adult not interested in the outcome of administrative case and has special knowledge and (or) skills to participate in a court hearing or procedural actions in order to assist in the collection, research and assessment of evidence by giving consultations (explanations) and assistance in the use of scientific and technical means.

The court has the right to involve specialists at the request of the participants in the administrative process. The participants in the administrative process may ask the court to involve a specific person with special knowledge and (or) skills as a specialist.

2. Specialist has the right to:

1) get acquainted with the materials of the administrative case related to the subject of research;

2) submit petitions for the provision of additional materials necessary for giving an opinion;

3) know the purpose of his summon;

4) refuse to participate in the administrative legal proceedings if he does not possess the relevant special knowledge and skills;

5) with the permission of the court, ask questions to the participants in the administrative proceeding; to draw their attention to the circumstances associated with his actions in assisting in the collection, research and assessment of evidence and the use of scientific and technical means, the study of administrative case materials, the preparation of materials for the appointment of an examination;

6) get acquainted with the protocol of the procedural action in which he took part, as well as in the relevant part with the protocol of the court session and make statements and comments to be entered into the protocol regarding the completeness and correctness of recording the course and results of the actions performed with his participation;

7) present an opinion and give advice (explanations) in the native language or the language that he speaks; use the free assistance of a translator; challenge the translator;

8) receive reimbursement of expenses incurred by him in connection with his participation in the proceedings, and remuneration for the work performed, if participation in the proceedings in administrative case is not part of his official duties.

3. Specialist is not entitled to:

1) negotiate with the participants in the administrative process on issues related to the conduct of the study, without the knowledge of the court;

2) independently collect research materials.

4. Specialist is obliged to:

1) appear when summoned by the court;

2) participate in the production of procedural actions and court proceedings, using special knowledge, skills and scientific and technical means to assist in the collection, research and assessment of evidence;

3) give explanations on the actions performed by him;

4) not to disclose information on the circumstances of the administrative case and other information that became known to him in connection with his participation in the administrative case;

5) observe order during the court session;

6) ensure the safety of the objects submitted for research.

5. In the case of a knowingly false conclusion, the specialist shall bear criminal liability established by law.

### **Article 35. Interpreter**

1. A person who is not interested in the administrative case, who knows the language in which the administrative legal proceedings are carried out, knowledge of which is necessary for translation from one language into another, or a person who is fluent in the technique of communicating with the deaf, dumb, deaf and dumb, shall be called as an interpreter.

2. Interpreter has the right to:

1) during translation, ask questions to the persons present to clarify the translation;

2) get acquainted with the protocol of the procedural action in the production of which he participated, as well as in the relevant part with the protocol of the court session and make comments to be entered into the protocol regarding the completeness and correctness of the translation;

3) refuse to participate in the administrative case if he does not have the knowledge necessary for translation;

4) receive reimbursement of expenses incurred by him in connection with participation in judicial proceedings, and remuneration for the work performed, if participation in administrative legal proceedings is not part of his official duties.

3. Interpreter is obliged to:

1) appear when summoned by the court;

2) complete and correct translation;

3) certify the correctness of the translation by his signature in the documents handed over to the participants in the administrative proceeding in translation into their native language or the language they speak;

4) not to disclose information on the circumstances of the administrative case or other data that became known to him in connection with the involvement of him as a translator;

5) observe order during the court session.

4. In the case of a deliberately incorrect translation, the translator shall bear criminal liability established by the law.

**SECTION 2. INTERNAL ADMINISTRATIVE PROCEDURES OF STATE BODIES Chapter 7. GENERAL PROVISIONS OF INTERNAL ADMINISTRATIVE PROCEDURES OF STATE BODIES Article 36. Conditions for implementation of internal administrative procedures of state bodies**

The internal administrative procedures of state bodies provided for by this Code shall be carried out in the following conditions:

1) subordination of subordinate state bodies and officials to higher ones, with the exception of state electoral bodies;

2) mutual responsibility and balance of interests of the individual, society and the state;

3) clear delineation of competence and coordinated functioning of all state bodies and state officials.

**Article 37. Organization and control over the execution of a legal act of individual application**

1. Organization of the execution of a legal act of individual application shall consist in the development and adoption by an official of the relevant authorized state body of measures for the timely and comprehensive implementation of the decision.

2. If necessary, to ensure the execution of a legal act of individual application, the authorized state body (official) shall develop and approve a plan of organizational measures for its implementation, which shall be communicated to the direct executors.

3. If the legal act of individual application does not set specific terms of its execution and the actual perpetrators, they shall be established the state body - an executive, or higher authority and shall be communicated immediately to the direct executives.

4. For the purpose of timely and comprehensive execution of the adopted decisions, a state body or official must exercise control over their implementation.

**Article 38. Procedure for implementation of internal control over the execution of a legal act of individual application of a state body, orders of the President of the Republic of Kazakhstan, the Government of the Republic of Kazakhstan**

1. Internal control shall be subdivided into control over execution of:

1) the legal acts of individual application (measures, the implementation of which is provided for by legal acts). In this case, all legal acts of individual application shall be taken under control, which contain measures to be performed;

2) the instructions of the President of the Republic of Kazakhstan, the Government of the Republic of Kazakhstan and leading officials of a state body arising from other documents of an official nature.

2. Internal control shall be carried out by:

1) requesting the necessary information;

2) hearing and discussing reports and performance reports;

3) revisions and other forms of documentary verification;

4) on-site inspections;

5) in other ways that do not contradict the legislation of the Republic of Kazakhstan.

3. Internal control shall be carried out according to the following parameters:

1) compliance of the activities of structural, territorial divisions, subordinate state bodies and organizations and their officials to the tasks assigned to them;

2) timeliness and completeness of execution;

3) compliance with the requirements of the legislation of the Republic of Kazakhstan during execution.

4. An official or a relevant structural subdivision of a state body authorized to exercise control over the execution of a legal act of individual application that has entered into effect or instructions of the President of the Republic of Kazakhstan, the Government of the Republic of Kazakhstan and leading officials of a state body arising from other official documents shall, if necessary, develop control measures.

Therewith an official or a relevant structural unit of a state body authorized to exercise control shall analyze the incoming information on its implementation to determine:

1) degree and quality of execution of a legal act of individual application;

2) presence of deviations in the execution of a legal act of individual application, the establishment of their causes and possible measures to eliminate deviations;

3) possibility of removing from control or extending the execution period;

4) responsibility of specific officials for non-execution or improper execution of a legal act of individual application.

The proposals developed because of the analysis of information shall be reported to the administrative authority of the state body for making an appropriate decision. The executors of the state body who analyzed the information shall be informed about the decision.

5. Removal from control and extension of the deadlines for the implementation of measures provided for by the legal act of individual application are carried out by the leadership of the state body.

Removal from control of orders of the President of the Republic of Kazakhstan, the Government of the Republic of Kazakhstan shall be carried out in the manner prescribed by the legislation of the Republic of Kazakhstan.

6. The control service of a higher state body or executive body, prior to the expiration of the execution period established in a legal act for individual application, shall send to the performer a corresponding written reminder in the manner determined by the regulations of the state body.

Additional issues related to the organization and implementation of internal control may be determined by the state body itself or by a higher state body in relation to it.

The effect of this part shall not apply to internal control carried out by an internal control body authorized by the Government of the Republic of Kazakhstan, carried out in accordance with the Budget Code of the Republic of Kazakhstan.

#### **Article 39. Planning the work of the state bodies**

1. State bodies shall carry out their activities in accordance with strategic and operational plans, as well as, if necessary, with work plans drawn up for a quarter, a year and a long-term perspective.

2. State bodies that do not develop strategic plans shall carry out their activities in accordance with work plans drawn up for a quarter, a year, and a long-term perspective.

3. The work plans of state bodies shall be drawn up in advance based on proposals from structural divisions of a state body and in pursuance of legal acts.

Based on the work plan of a state body, structural divisions of this state body shall draw up their work plans.

#### **Article 40. Regulations, provision on the state body and structural unit of the state body**

1. On issues of organization and internal procedure of its activities, the state body shall adopt regulations.

2. The status and powers of the state body shall be determined by the provision on the state body.

The Government of the Republic of Kazakhstan shall approve instructions for the development and approval of the regulations on state body.

The Government of the Republic of Kazakhstan in agreement with the Administration of the President of the Republic of Kazakhstan shall approve the model provision on state body.

3. Regarding the issues of determining the status and powers of the structural unit of the state body, the regulation shall be approved.

The Government of the Republic of Kazakhstan shall approve the procedure for development and approval of the regulations on the structural unit of the state body.

**Article 41. Competence, powers, functions and objectives of the state body**

1. The competence of a state body refers to the totality of the established powers of a state body that determine the subject of its activities.

The powers of a state body refer to the rights and obligations of a state body.

The objectives of a state body refer to the main areas of activity of a state body.

The functions of a state body refer to the implementation of activities by a state body within its competence.

The competence, powers, functions, and objectives of the state body shall be established in the Constitution of the Republic of Kazakhstan, laws and other normative legal acts of the Republic of Kazakhstan adopted by the President of the Republic of Kazakhstan, the Government of the Republic of Kazakhstan, the superior central state body in relation to it.

2. The functions of the state body shall be subdivided into strategic, regulatory, implementation and control:

strategic functions shall be the functions of developing, adopting planning documents, ensuring international relations, national security and defense capability;

regulatory functions shall be the functions of regulatory legal support for the implementation of state functions, registration and analysis of the implementation of regulatory legal acts, coordination of the activities of state bodies, management of state assets;

implementation functions shall be the functions aimed at the implementation of planning documents, regulatory legal acts, achievement of goals and objectives stipulated by the planning documents of a state body, provision of public services, including the issuance, renewal, prolongation, re-issuance and implementation of other actions in relation to permits provided for by the legislation of the Republic of Kazakhstan, as well as applications to them;

control functions shall be the functions of checking and monitoring the compliance of the activities of individuals and legal entities, including state institutions, with the requirements established by regulatory legal acts, and in cases provided for by the laws of the Republic of Kazakhstan, with the requirements established by the laws of the Republic of Kazakhstan, decrees of the President of the Republic of Kazakhstan and resolutions of the Government of the Republic of Kazakhstan.

The distribution of functions into strategic, regulatory, implementation and control in the structure of state bodies accountable to the President of the Republic of Kazakhstan shall be determined by the President of the Republic of Kazakhstan, and in central executive bodies - by the Government of the Republic of Kazakhstan.

3. State bodies shall be prohibited from performing functions that are not provided for by them in the legislation of the Republic of Kazakhstan.

State bodies independently conduct a functional analysis of activities in accordance with the methodology for conducting sectoral (departmental) functional reviews of the activities of state bodies approved by the authorized body in the field of development of the public administration system.

**Footnote. Article 41 as amended by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).**

#### **Article 42. Sole administrative activity**

1. Sole administrative activity refers to an activity carried out by officials in state bodies, consisting in the sole signing by authorized officials of legal acts of individual application, giving instructions, and missions to subordinate employees, solely taking other organizational and administrative measures to carry out state functions.

2. The head of a state body (with the exception of collegial state bodies) shall exercise leadership of the entrusted body through sole administrative activity and shall bear personal responsibility for the legality of decisions made.

3. In carrying out sole administrative activity, subordinate officials shall carry out their actions in strict accordance with the decisions of a higher official. If state functions are carried out exclusively through sole administrative activity, in this case the objective of lower officials shall be to ensure this activity of an authorized person.

#### **Article 43. Collegial state body**

1. Collegial state bodies refer to the state bodies, decisions of which shall be adopted by a majority vote of the members of these bodies. Responsibility for the legality of the decisions taken by the collegial body shall rest with all members of the collegial body who took part in the voting, except for those who voted against the decision.

2. The main form of activity of collegial state bodies shall be their meetings, where decisions of these bodies are taken.

3. When preparing and holding meetings of collegial state bodies, authorized bodies (their structural divisions) and officials shall resolve the following issues:

1) development and approval of a plan for holding meetings for a quarter and a year, respectively, approved by the head of the collegial state body or the head of the body that ensures the activities of the collegial state body, which is brought to the attention of interested bodies and officials;

2) preparation of issues submitted to the meeting of the collegial state body, other organizational measures for holding the meeting shall be carried out by its respective structural divisions or by the body that ensures the activities of the collegial state body.



4. The procedure for holding meetings shall be determined by the regulations of collegial state bodies.

5. The meeting of the collegial state body shall be recorded.

6. Decisions taken at the meeting shall be drawn up in accordance with the regulations of the collegial state body by resolutions and shall be brought to the attention of the performers. If necessary, a plan of measures for the implementation of the adopted decisions shall be developed and approved, and control over their implementation shall be established.

#### **Article 43-1. Project management**

1. Achievement of the goals set in strategic and (or) program documents can be carried out through project management.

2. The rules for implementation of project management are approved by the authorized body for project management.

3. The authorized body for project management approves the model regulations for the project management of state bodies.

**Footnote.** The Code is supplemented by Article 43-1 in accordance with the Law of the Republic of Kazakhstan dated 02.01.2021 No. 399-VI (shall be enforced ten calendar days after the day of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

#### **Article 43-2. Data management**

1. Data management is a process related to the definition, creation, collection, accumulation, storage, distribution, destruction, support of data, as well as ensuring their analytics, quality, availability, protection.

2. Authorized data management body:

1) manages and ensures the implementation of the state data management policy;

2) develops and approves data management requirements;

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

3. The owner of the data created, accumulated and acquired at the expense of budgetary funds, as well as obtained by other means established by the laws of the Republic of Kazakhstan, is the state.

4. The management of data constituting state secrets, official or confidential information is carried out taking into account the features established by the laws of the Republic of Kazakhstan.

**Footnote.** The Code is supplemented by Article 43-2 in accordance with the Law of the Republic of Kazakhstan dated 14.07.2022 No. 141-VII (shall be enforced ten calendar days after the date of its first official publication).

#### **Article 43-3. Digital transformation of public administration**

1. State bodies conduct digital transformation.
2. The authorized body in the field of informatization carries out inter-sectoral coordination of the digital transformation of public administration.
3. Organizational and methodological support of the digital transformation of public administration is carried out by a legal entity determined by the Government of the Republic of Kazakhstan.

**Footnote.** The Code is supplemented by Article 43-3 in accordance with the Law of the Republic of Kazakhstan dated 14.07.2022 No. 141-VII (shall be enforced ten calendar days after the date of its first official publication); as amended by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

#### **Article 44. Consideration and movement of official documents in the state bodies**

1. Service documents addressed to the state body or directly to the management of this body, after their receipt and registration by the office management service shall be transferred to the management that considers them and prepares instructions (resolutions) on them.
2. In taking an issue for consideration, an official of a state body must make sure that the solution of the question posed is within the competence of this body or this official.
3. Documents on behalf of a state body shall be signed by its head, a person replacing him (in accordance with the distribution of official duties established in this body), or another authorized official of this body.
4. In sending a document requiring return to a state body, a note shall be made on it about the necessity of return to this state body.
5. Duration of consideration of documents in state bodies should not exceed one month unless otherwise established by the legislation of the Republic of Kazakhstan.

#### **Article 45. Requirements for information exchange**

1. Information exchange refers to the sending and receiving of information in the manner established by the legislation of the Republic of Kazakhstan by officials of state bodies during exercise of their official powers.
2. The procedures governing information exchange should facilitate:
  - 1) uninterrupted functioning of the unified information space of the Republic of Kazakhstan, its coming into the world communications and informatics system;
  - 2) strengthening the national information protection system, including state information resources.

Decision-making by state bodies and officials of the Republic of Kazakhstan shall be based on objective and proactive information.

3. Information exchange between government agencies and their structural subdivisions shall be based on the minimum required volume of mutual information flows, on the prevention of duplication in the provided management information.

4. Information procedures should not allow the disclosure of information constituting state secrets, official information of limited distribution and other information protected by law and should ensure the restriction of access to information related to intelligence, counterintelligence, operational-search activities, and security measures to ensure the safety of protected persons and objects.

Official information of limited distribution is marked "For official use only".

The rules for classifying information as official information of limited distribution and working with it shall be established by the Government of the Republic of Kazakhstan.

Civil servants shall be provided with official information only for the performance of their assigned official duties. This information may not be used for off-duty purposes.

5. State bodies shall carry out the integration of information systems in the manner and terms established by the authorized body in the field of information system development, with the exception of information systems containing information related to state secrets in accordance with the legislation of the Republic of Kazakhstan on state secrets.

In the exercise of state functions and provision of public services arising from them, the consent of state bodies to access the data contained in the integrated objects of informatization of state bodies is not required, except in cases established by the laws of the Republic of Kazakhstan.

5-1. State bodies and other persons in the exercise of state functions and the provision of public services arising from them are prohibited from collecting and requesting information from individual and legal entities if they are available in the objects of informatization of the "electronic government".

6. State bodies shall take measures to reduce (exclude) the use of paper documents and requirements for their submission in the exercise of state functions and the provision of state services.

In the case of using paper documents in the process of performing internal administrative procedures of state bodies, measures shall be taken for digitization paper documents.

7. Documents on paper or in electronic form are created, certified and stored in accordance with the procedure established by the legislation of the Republic of Kazakhstan.

An electronic document certified by means of an electronic digital signature (electronic document) is equivalent to a signed document on paper and does not require certification by other means.

**Footnote. Article 45 as amended by the Law of the Republic of Kazakhstan dated 14.07.2022 No. 141-VII (shall be enforced ten calendar days after the date of its first official publication).**

## **Article 46. Internal control over the execution of official documents**

1. Internal control over the execution of orders of the head of a state body or another superior official, not related to the acts issued by these officials, shall be assigned to the relevant divisions of this state body.

2. Internal control over the terms of the execution of orders on official documents shall be carried out by the office of the state body.

3. Execution of orders given to several performers shall be coordinated by the official indicated in the order first.

4. The office work service shall send a reminder of this to the relevant division in advance of the expiration of the execution period of the control order.

5. If additional time is required for the execution of the order, the executor shall apply in writing to the official who gave the order to extend the period for the execution of the order. An additional term for the execution of the order shall be established by the head who gave the order.

6. The executed documents shall be removed from the control by the official who gave the order, or by another authorized official.

## **Chapter 8. TRANSFER OF FUNCTIONS OF CENTRAL AND (OR) LOCAL EXECUTIVE BODIES TO THE COMPETITIVE ENVIRONMENT Article 47. General provisions for the transfer of functions of central and (or) local executive bodies to the competitive environment**

1. The main goals of transferring the functions of central and (or) local executive bodies to the competitive environment shall be:

- 1) promoting the development and improvement of the competitive environment;
- 2) increasing the efficiency and quality of the functions of central and (or) local executive bodies;
- 3) improvement of the public administration system;
- 4) optimization.

2. The main principles of transferring the functions of central and (or) local executive bodies to the competitive environment shall be:

- 1) maintaining a balance of interests of citizens, the business community and the state;
- 2) ensuring in equal measure the protection of the rights, freedoms and legal interests of citizens, the business community and the state;
- 3) validity and efficiency of transferring the functions of central and (or) local executive bodies to the competitive environment;
- 4) responsibility of the business community and the state, provided for by the laws of the Republic of Kazakhstan for the implementation of the functions of central and (or) local executive bodies transferred to the competitive environment;

5) continuity and integrity of processes for the transfer of functions of central and (or) local executive bodies to the competitive environment, as well as associated optimization.

3. Transfer of functions of central and (or) local executive bodies to the competitive environment shall be carried out in accordance with this Code on an annual basis on the basis of decisions of the Commission on the transfer of functions of central and (or) local executive bodies to the competitive environment (hereinafter referred to as the Commission).

4. Transfer of functions of central and (or) local executive bodies to the competitive environment shall be carried out by:

- 1) outsourcing;
- 2) state assignment;
- 3) state social order;
- 4) transfer at the expense of users;
- 5) introduction of self-regulation based on mandatory membership (participation).

5. The functions of central and (or) local executive bodies, transferred through outsourcing, state assignments and state social orders, are subject to partial transfer. Therewith the function shall not be excluded from the competence of central and (or) local executive bodies.

6. Selection of the functions of the central and (or) local executive bodies proposed for transfer to the competitive environment shall be carried out in accordance with the methodology for selecting the functions of the central and (or) local executive bodies for transfer to the competitive environment.

7. The main criteria for selecting the functions of central and (or) local executive bodies for transferring to a competitive environment shall be:

- 1) possibility of increasing the efficiency and quality of the functions of central and (or) local executive bodies, taking into account the interests and needs of the population;
- 2) market readiness or the presence of a competitive environment;
- 3) potential for market development.

8. It shall be prohibited to transfer to the competitive environment the functions of central and (or) local executive bodies aimed at protecting the constitutional order, protecting public order, human rights and freedoms, health and morals of the population, to carry out the export of capital, higher supervision, pre-trial proceedings in a criminal case, operational and investigative activities, justice, as well as in the spheres of national, information security, protection of state secrets, defense, migration, state statistics and other functions, the transfer of which may harm the interests of the state.

9. After the selection of the functions of central and (or) local executive bodies proposed for transfer to a competitive environment, the cost of the function of the central and (or) local executive bodies shall be calculated in accordance with the methodology for determining the cost of the function of the central and (or) local executive bodies proposed for transfer to a competitive environment.

10. In transferring the functions of central and (or) local executive bodies to the competitive environment, a calculation shall be made for optimization. Therewith the redistribution of the costs of the central and (or) local executive bodies shall be allowed only in cases where additional functions are assigned to them.

11. The analysis of market readiness for performing the functions of central and (or) local executive bodies proposed for transfer to a competitive environment shall be carried out in accordance with the methodology for analyzing market readiness by functions of central and (or) local executive bodies proposed for transfer to a competitive environment.

12. Monitoring shall be carried out in accordance with Article 53 of this Code.

13. In order to inform users and the competitive environment, the following information shall be posted and subsequently updated on the Internet resources of the authorized body in the development of the public administration system and the National Chamber of Entrepreneurs of the Republic of Kazakhstan:

1) the list of the functions of central and (or) local executive bodies proposed for transfer to a competitive environment;

2) the register of functions of central and (or) local executive bodies transferred to the competitive environment, indicating the regulatory legal act to which they were transferred;

3) the decision of the Commission, the results of monitoring and a list of functions of the central and (or) local executive bodies returned to the competence of the central and (or) local executive bodies based on the results of monitoring, indicating the regulatory legal act where they were returned.

#### **Article 48. Transfer of functions of central and (or) local executive bodies to the competitive environment via outsourcing**

The functions of central and (or) local executive bodies shall be transferred to the competitive environment for their implementation through outsourcing in accordance with the legislation of the Republic of Kazakhstan on public procurement.

#### **Article 49. Transfer of the functions of central executive bodies to the competitive environment via state assignment**

1. The functions of central executive bodies shall be transferred to the competitive environment via state assignment in accordance with the procedure for the development and implementation of a state assignment established by the budgetary legislation of the Republic of Kazakhstan.

2. Fulfillment of the state objective shall be carried out within the framework of the implementation of the approved republican budget programs by concluding a civil transaction between the administrator of the republican budget program and the executor of the state objective, specifying the results indicators in it.

## **Article 50. Transfer of functions of central and (or) local executive bodies to a competitive environment by means of a state social order**

The transfer of the functions of central and (or) local executive bodies to the competitive environment through the state social order is carried out in accordance with the legislation of the Republic of Kazakhstan on the state social order, the state order for implementation of strategic partnership, grants and awards for non-governmental organizations in the Republic of Kazakhstan.

**Footnote. Article 50 - as amended by the Law of the Republic of Kazakhstan dated 04.07.2022 No. 134-VII (shall be enforced sixty calendar days after the date of its first official publication).**

## **Article 51. Transfer of functions of central and (or) local executive bodies to the competitive environment at the expense of users**

Functions of central and (or) local executive bodies shall be transferred to the competitive environment by excluding functions from the competence of central and (or) local executive bodies and shall be carried out at the expense of users.

## **Article 52. Transfer of functions of central and (or) local executive bodies to a competitive environment by introducing self-regulation based on mandatory membership (participation)**

1. Transfer of functions of central and (or) local executive bodies to self-regulatory organizations based on compulsory membership (participation) in the field of entrepreneurial or professional activity shall be ensured after confirmation of the readiness of self-regulatory organizations.

2. Readiness of self-regulatory organizations based on compulsory membership (participation) to perform the functions of central and (or) local executive bodies shall be ensured by conducting a regulatory impact analysis in order to determine the benefits and costs for users, performers of functions of central and (or) local executive bodies and the state

## **Article 53. Monitoring**

1. The purpose of monitoring is to monitor the performance of the functions of central and (or) local executive bodies transferred to the competitive environment.

2. The results of monitoring shall be used to compare key indicators of the implementation in the competitive environment of the functions of central and (or) local executive bodies transferred to the competitive environment, and to make appropriate decisions and measures.

3. Monitoring, with the exception of monitoring the implementation of the state social order shall be based on:

1) analysis of applications from individuals and legal entities on the implementation of the functions of central and (or) local executive bodies transferred to the competitive environment ;

2) analysis of information from the competitive environment, the National Chamber of Entrepreneurs of the Republic of Kazakhstan on the implementation of the functions of central and (or) local executive bodies transferred to the competitive environment;

3) system for collecting and analyzing data on the implementation of the functions of central and (or) local executive bodies transferred to the competitive environment;

4) analysis of market readiness conducted by central and (or) local executive bodies and interested parties.

4. Monitoring shall be carried out by central and (or) local executive bodies and interested parties, with the exception of subjects of the quasi-public sector, in accordance with this Code

5. On the basis of proposals of the Commission, the National Chamber of Entrepreneurs of the Republic of Kazakhstan shall be involved in the procedure established by the legislation of the Republic of Kazakhstan to obtain an independent assessment of the implementation of the functions of central and (or) local executive bodies transferred to the competitive environment.

6. Monitoring of the implementation of the state social order is carried out in accordance with the rules for the formation, monitoring of the progress and evaluation of the results of the state social order approved by the authorized body in the field of interaction with non-governmental organizations.

7. Monitoring of the implementation of outsourcing, government assignment, transfer at the expense of users shall be carried out on the basis of performance criteria and the process in accordance with the rules for monitoring the implementation of the functions of central and (or) local executive bodies transferred to the competitive environment.

The performance criterion shall determine the achievement of key indicators established by the central and (or) local executive bodies for the implementation of the functions of central and (or) local executive bodies transferred to the competitive environment.

The process criterion shall determine the assessment of the implementation of the functions of central and (or) local executive bodies transferred to the competitive environment , based on the analysis of requests from individuals and legal entities, information from the competitive environment, the National Chamber of Entrepreneurs of the Republic of Kazakhstan on the implementation of the functions of central and (or) local executive bodies transferred to the competitive environment.

8. In conducting monitoring, the central and (or) local executive bodies, the National Chamber of Entrepreneurs of the Republic of Kazakhstan have the right to request from the executors of the functions of central and (or) local executive bodies the necessary information related to the sphere of exercising the functions of central and (or) local executive bodies, in



the absence of this information on their Internet resources, with the exception of information constituting state secrets, commercial and other secrets protected by law.

**Footnote. Article 53 as amended by the Law of the Republic of Kazakhstan dated 04.07.2022 No. 134-VII (shall be enforced sixty calendar days after the date of its first official publication).**

#### **Article 54. Return of functions of central and (or) local executive bodies transferred to the competitive environment**

1. In the event that, based on the results of monitoring, the central and (or) local executive bodies have established that the function of the central and (or) local executive bodies, transferred to the competitive environment, is unsatisfactory, the central and (or) local executive bodies shall notify about this the authorized body in the field of development of the public administration system and the National Chamber of Entrepreneurs of the Republic of Kazakhstan.

2. The authorized body in the field of development of the public administration system, within ten working days from the date of receipt of the notification, shall bring the issue of unsatisfactory performance of the function of the central and (or) local executive bodies transferred to the competitive environment for consideration by the Commission.

3. In making decision by the Commission to return the functions of central and (or) local executive bodies transferred to the competitive environment, within the framework of:

1) partial transfer by central and (or) local executive bodies - the return of such functions shall be ensured by termination of the contract concluded with the performer of the functions of central and (or) local executive bodies, in the manner prescribed by the legislation of the Republic of Kazakhstan;

2) full transfer by central and (or) local executive bodies - in order to return such functions, measures shall be taken to develop a draft normative legal act in accordance with the legislation of the Republic of Kazakhstan.

In order to return the functions of central and (or) local executive bodies transferred to the competitive environment, after the recommendation of the Commission, the central and (or) local executive bodies shall submit proposals to the Government of the Republic of Kazakhstan on the development of a draft normative legal act necessary to ensure the return of functions to the central and (or) local executive bodies.

4. In case of failure to achieve the goals of self-regulation based on compulsory membership (participation), the authorization or notification procedure shall be cancelled in accordance with the Entrepreneurial Code of the Republic of Kazakhstan.

#### **Article 55. Competence of the Government of the Republic of Kazakhstan**

The Government of the Republic of Kazakhstan shall:

1) develop the main directions of state policy for transferring the functions of central and (or) local executive bodies to the competitive environment;

2) perform other functions assigned to it by the Constitution of the Republic of Kazakhstan, laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

#### **Article 56. Competence of the authorized body in the field of development of the public administration system**

The authorized body in the field of development of the public administration system shall:

1) implement the state policy of transferring the functions of central and (or) local executive bodies to the competitive environment;

2) inform on an annual basis the Government of the Republic of Kazakhstan on the results of the work being carried out to transfer the functions of central and (or) local executive bodies to the competitive environment;

3) develop and approve the rules for outsourcing the functions of central and (or) local executive bodies;

4) develop and approve the rules for transferring the functions of central and (or) local executive bodies to the competitive environment;

5) develop and approve a methodology for selecting the functions of central and (or) local executive bodies for transfer to the competitive environment;

6) develop and approve a methodology for determining the cost of the function of the central and (or) local executive bodies proposed for transfer to the competitive environment;

7) develop and approve a methodology for analyzing market readiness by functions of central and (or) local executive bodies proposed for transfer to the competitive environment;

8) develop and approve the rules for monitoring the implementation of the functions of central and (or) local executive bodies transferred to the competitive environment;

9) provide methodological assistance and coordination of the activities of central and (or) local executive bodies to transfer the functions of central and (or) local executive bodies to the competitive environment;

10) prepare and issue expert opinions to the central and (or) local executive bodies on the market readiness analysis carried out by them;

11) conduct an examination of the results of the selection of functions of central and (or) local executive bodies, proposed by central and (or) local executive bodies for transfer to the competitive environment, within the limits of their competence;

12) prepare and issue an opinion on the submitted calculation for optimization, carried out by the central and (or) local executive bodies;

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

## **Article 57. Competence of central and (or) local executive bodies**

### 1. Central executive bodies shall:

1) carry out, on an annual basis, together with interested parties, performers of functions of central and (or) local executive bodies and the National Chamber of Entrepreneurs of the Republic of Kazakhstan, selection of functions of central and (or) local executive bodies for transfer to the competitive environment in the relevant industry (sphere) of public administration;

2) carry out, together with interested parties, performers of functions of central and (or) local executive bodies and the National Chamber of Entrepreneurs of the Republic of Kazakhstan, an analysis of market readiness by functions of central and (or) local executive bodies proposed for transfer to the competitive environment in the relevant industry (sphere) government controlled;

3) submit proposals on the transfer of functions of central and (or) local executive bodies to the competitive environment to the authorized body in the field of development of the public administration system;

4) develop drafts of regulatory legal acts on the transfer of functions of central and (or) local executive bodies to the competitive environment in the relevant branch (sphere) of public administration, as well as the return of functions of central and (or) local executive bodies transferred to the competitive environment;

5) take measures aimed at restoring the rights, freedoms and legitimate interests of users, in accordance with the legislation of the Republic of Kazakhstan in case of their violation;

6) be obliged to familiarize the performers of the functions of central and (or) local executive bodies with the results of monitoring;

7) carry out a calculation for optimization and send it for approval to the authorized body in the field of development of the public administration system when transferring the functions of central executive bodies to the competitive environment;

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

### 2. Local executive bodies shall:

1) carry out, on an annual basis, together with interested parties, performers of functions of central and (or) local executive bodies and the National Chamber of Entrepreneurs of the Republic of Kazakhstan, selection of functions of local executive bodies for transfer to the competitive environment;

2) carry out, together with interested parties, performers of the functions of central and (or) local executive bodies and the National Chamber of Entrepreneurs of the Republic of Kazakhstan, an analysis of market readiness according to the functions of local executive bodies proposed for transfer to the competitive environment;

3) submit proposals on the transfer of functions of local executive bodies to the competitive environment to the authorized body in the field of development of the public administration system;

4) take measures aimed at restoring the rights, freedoms and legitimate interests of users, in accordance with the legislation of the Republic of Kazakhstan in case of their violation;

5) be obliged to familiarize the performers of the functions of central and (or) local executive bodies with the results of monitoring;

6) in transferring the functions of local executive bodies to the competitive environment, carry out a calculation for optimization and send it for approval to the authorized body in the field of development of the public administration system;

7) exercise, in the interests of local government, other powers assigned to local executive bodies by the legislation of the Republic of Kazakhstan.

#### **Article 58. Competence of the National Chamber of Entrepreneurs of the Republic of Kazakhstan**

National Chamber of Entrepreneurs of the Republic of Kazakhstan shall:

1) collect, analyze and publish proposals of business entities and their associations on the functions of central and (or) local executive bodies proposed for transfer to the competitive environment;

2) submit to the authorized body in the field of development of the public administration system, central and (or) local executive bodies proposals on the transfer of functions of central and (or) local executive bodies to the competitive environment;

3) take part in the consideration of issues of unsatisfactory performance of the functions of central and (or) local executive bodies transferred to the competitive environment;

4) perform other functions provided for by this Code and other laws of the Republic of Kazakhstan.

#### **Article 59. Interaction of central and (or) local executive bodies with the National Chamber of Entrepreneurs of the Republic of Kazakhstan on the transfer of functions of central and (or) local executive bodies to a competitive environment**

Central and (or) local executive bodies shall interact with the National Chamber of Entrepreneurs of the Republic of Kazakhstan in the manner established by the legislation of the Republic of Kazakhstan, including via participation in:

1) selection, on an annual basis, of the functions of central and (or) local executive bodies for transfer to the competitive environment;

2) analysis of market readiness by functions of central and (or) local executive bodies proposed for transfer to the competitive environment;

3) work on the development of proposals on the transfer of the functions of central and (or) local executive bodies affecting the interests of business entities to the competitive environment.

**Article 60. Rights and obligations of functions performers of central and (or) local executive bodies**

1. Performers of the functions of central and (or) local executive bodies have the right to:

1) apply with a request to the central and (or) local executive bodies for information necessary to perform the functions of central and (or) local executive bodies transferred to the competitive environment;

2) conduct an alternative analysis of market readiness by functions of central and (or) local executive bodies proposed for transfer to the competitive environment;

3) submit proposals to the authorized body in the field of development of the public administration system, central and (or) local executive bodies on the transfer of functions of central and (or) local executive bodies to the competitive environment;

4) participate in the analysis of market readiness by the functions of central and (or) local executive bodies proposed for transfer to the competitive environment;

5) participate in the selection on an annual basis of the functions of central and (or) local executive bodies for transfer to the competitive environment;

6) get acquainted with the results of monitoring;

7) no later than ten working days from the date of receipt of the monitoring results, submit written explanations on disagreement with the monitoring results or an action plan to eliminate comments to be considered by the Commission.

2. The performers of the functions of central and (or) local executive bodies are obliged to

:

1) create conditions for the high-quality implementation of the functions of central and (or) local executive bodies transferred to the competitive environment;

2) create the necessary conditions for persons with disabilities when they receive the functions of central and (or) local executive bodies transferred to the competitive environment

;

3) provide the central and (or) local executive bodies, the National Chamber of Entrepreneurs of the Republic of Kazakhstan with information and (or) documents necessary for monitoring, in the case provided for by this Code;

4) provide users with complete and reliable information on the procedure for performing the functions of central and (or) local executive bodies transferred to the competitive environment;

5) take measures aimed at restoring violated rights, freedoms and legitimate interests of users, in accordance with the legislation of the Republic of Kazakhstan.

## **Article 61. Activities and functions of the Commission**

1. In order to develop proposals and recommendations on the transfer of functions of central and (or) local executive bodies to the competitive environment, consulting and advisory body - the Commission shall be created.

The Commission may include deputies of the Parliament of the Republic of Kazakhstan, representatives of central and local executive bodies, the National Chamber of Entrepreneurs of the Republic of Kazakhstan, business entities, and non-governmental organizations.

2. The Commission shall perform the following functions:

1) developing proposals and recommendations on the transfer of functions of central and (or) local executive bodies to the competitive environment;

2) developing proposals and recommendations for the return of the functions of central and (or) local executive bodies transferred to the competitive environment, based on the proposals of the authorized body in the field of development of the public administration system, the National Chamber of Entrepreneurs of the Republic of Kazakhstan.

3. Information on the activities of the Commission shall be posted and updated at least once every six months on the Internet resource of the authorized body in the field of development of the public administration system.

## **SECTION 3. ADMINISTRATIVE PROCEDURE Chapter 9. INITIATION OF**

### **ADMINISTRATIVE PROCEDURE Article 62. Basis for initiation of administrative procedure**

1. The basis for initiating an administrative procedure shall be:

1) appeal;

2) initiative of an administrative body, an official.

2. In the case provided for in subparagraph 1) of the first part of this Article, the administrative procedure shall be considered initiated from the moment the appeal is received.

3. The basis for initiating an administrative procedure in accordance with subparagraph 2) of part one of this Article shall be the requirement of the legislation of the Republic of Kazakhstan on administrative procedures or administrative discretion.

## **Article 63. General requirements for request**

1. Oral appeal shall be recorded in a separate protocol by an official or an employee of the administrative body who has accepted the appeal.

2. In the appeal submitted in written (paper and (or) electronic) form, the protocol shall indicate:

1) surname, name, patronymic (if it is indicated in the identity document), individual identification number (if any), postal address of an individual or name, postal address, business identification number of a legal entity (if any);

2) name of the administrative body, official to whom the appeal is submitted;

- 3) essence of the appeal;
- 4) date of filing the appeal;
- 5) signature of the applicant or his representative;
- 6) other information provided by the legislation of the Republic of Kazakhstan.

3. If, in accordance with the laws of the Republic of Kazakhstan, the administrative procedure is carried out on a paid basis, the applicant must submit a document confirming the payment.

**Footnote. Article 63 as amended by the Law of the Republic of Kazakhstan dated 14.07.2022 No. 141-VII (shall be enforced ten calendar days after the date of its first official publication).**

#### **Article 64. Acceptance, registration, return, and withdrawal of appeal**

1. Appeal filed in accordance with the procedure established by this Code is subject to compulsory acceptance, registration, accounting, and consideration.

Refusal to accept the appeal shall be prohibited.

2. In case of filing an appeal with a state body, local self-government body, a legal entity with one hundred percent participation of the state, the applicant shall be issued a coupon containing a unique number, indicating the date and time, surname and initials, position of the person who accepted the appeal.

3. Appeal shall be registered on the day of its receipt.

If the appeal is received on a non-working day, it shall be registered on the next following working day.

4. Appeals received through publicly available information systems and meeting the requirements of the legislation of the Republic of Kazakhstan on electronic documents and electronic digital signatures are subject to consideration in the manner prescribed by this Code

#### **Note!**

**The effect of part five is suspended until 01.01.2026 in accordance with Article 175 of this Code and during the suspension period this paragraph is valid in the following wording:**

5. The procedure for applying of participants in the administrative procedure through videoconference to the heads of state bodies and their deputies is determined by the authorized body in the field of informatization.

6. In case of non-compliance of the appeal with the requirements established by Article 63 of this Code, an administrative body, an official shall indicate to the applicant the requirements the appeal does not meet, shall establish a reasonable period for bringing it into compliance with the requirements.

7. An administrative body, an official shall return the appeal, if the applicant has not brought it into compliance with the requirements of the legislation of the Republic of Kazakhstan within the period established by the administrative body, the official.

8. The return of the appeal shall not preclude the repeated appeal.

9. The applicant, prior to making a decision on the administrative case, may withdraw the appeal based on his (her) written application.

Withdrawal of the appeal by the applicant shall not deprive him (her) of the right to file a repeated appeal, subject to the deadlines unless otherwise provided by the laws of the Republic of Kazakhstan.

#### **Article 65. Forwarding the request to the authorized administrative body, official**

1. An appeal received by an administrative body, an official, whose authority does not include consideration of this appeal, shall be forwarded to the authorized administrative body, an official within three working days from the date of its receipt, with simultaneous notification (notice) of the participant in the administrative procedure.

2. One or more petitions, requirements contained in a petition received by an administrative body, an official, whose authority does not include their consideration, shall be forwarded to the authorized administrative body, official with simultaneous notification (notice) no later than three working days from the date of receipt a participant in the administrative procedure.

3. Upon the forwarded appeal or part of it, the authorized administrative body, the official shall initiate an administrative procedure in the manner prescribed by this Code.

#### **Article 66. Notification (notice) in the administrative procedure**

1. Participant in the administrative procedure shall be notified of the time and place of the hearing or other measures necessary for the implementation of the administrative procedure.

2. The notification is sent by registered mail with a notification of its delivery, by telephone message or telegram, to the user's account on the e-government web portal with a short text message to the cellular subscriber number registered on the e-government web portal, a text message to the cellular subscriber number or to an e-mail address or using other means of communication that ensure the recording of a notification or call.

3. If the participant in the administrative procedure does not actually reside at the indicated address, notifications (notices) may be sent to the legal address or to the place of his work.

Notifications (notices) addressed to a legal entity shall be sent to the place of its location.

4. Participant in the administrative procedure shall confirm with his signature that the address of his place of residence (location), place of work, mobile phone number, e-mail address indicated by him is reliable, and the notification (notice) sent to the specified contacts will be considered appropriate and sufficient.



5. If a participant in the administrative procedure refuses to accept the notification (notice) , the person delivering or serving it shall make an appropriate note on the notification (notice) , which shall be returned to the administrative body, to the official.

**Footnote. Article 66 c as amended by the Law of the Republic of Kazakhstan dated 05.11.2022 No. 157-VII (effective after ten calendar days after the date of its first official publication); dated 06.02.2023 No. 194-VII (shall be enforced from 01.04.2023).**

#### **Article 67. Disqualification (self-disqualification) of an official**

1. An official may not carry out an administrative procedure if he (she):

1) participated in this administrative procedure as a participant in the administrative procedure or his representative;

2) is a close relative, spouse or in-law of a participant in the administrative procedure;

3) is in official or other dependence on a participant in the administrative procedure;

4) is personally, directly or indirectly interested in the outcome of the administrative case, or there are other circumstances that raise doubts about its objectivity and impartiality.

2. The previous performance of the administrative procedure by a person as an official shall not be a circumstance precluding his further participation in the relevant capacity in the administrative procedure.

3. Disqualification (self-disqualification) declared to an official shall be permitted within three working days from the day of his (her) application.

4. Disqualification (self-disqualification) declared to an official carrying out an administrative procedure shall be permitted by a higher official.

5. In considering administrative case by a collegial composition of an administrative body , a disqualification (self-disqualification) declared to one of the officials shall be permitted by other officials of the collegial composition of the administrative body.

6. Disqualification (self-disqualification), declared to the head of the administrative body, shall be permitted by the higher administrative body.

7. Disqualification (self-disqualification), declared to the head of an administrative body that does not have a superior administrative body, shall be permitted by a person specified in the law of the Republic of Kazakhstan.

If the law does not provide for the appropriate person, disqualification (self-disqualification) shall be permitted by the deputy head of the administrative body, and in his absence - by another official.

8. Upon satisfaction of the application for disqualification (self-disqualification), the administrative procedure shall be carried out by another official in the manner established by the legislation of the Republic of Kazakhstan on administrative procedures.

9. Repeated application for disqualification (self-disqualification) due to previously stated circumstances shall be prohibited.

10. Decision based on the results of consideration of the application for disqualification (self-disqualification) is not subject to appeal.

#### **Article 68. Representation in administrative procedure**

1. Participant in an administrative procedure has the right to conduct his (her) administrative cases in person, by a representative, or together with him (her).

2. Representation in the administrative procedure shall be carried out in accordance with the legislation of the Republic of Kazakhstan.

Participant in an administrative procedure has the right to authorize litigation of his (her) administrative cases to another person, announcing this orally to an administrative body, an official. In this case, the administrative body, the official shall process the authority of the representative in writing, which shall be signed by the represented.

3. Representative has the right to perform on behalf of the represented all actions related to the implementation of the administrative procedure unless otherwise provided by the legislation of the Republic of Kazakhstan.

4. A person who is an official or employee of an administrative body conducting an administrative procedure may not be a representative.

5. Representatives indicated in part four of this Article shall be suspended by an administrative body, an official.

When a representative is suspended, an administrative body, an official shall postpone the implementation of the administrative procedure for the period necessary to process the powers of another representative, but no more than three working days.

#### **Article 69. Management and accounting of administrative cases**

1. An administrative body, an official shall form administrative case on paper and (or) in electronic form, which shall consist of the documents necessary for the implementation of the administrative procedure.

2. Management of administrative cases, their registers shall be carried out by an administrative body based on the Rules for documenting, document management, and the use of electronic document management systems in state and non-state organizations.

3. Registration, accounting of applications received by state bodies, local self-government bodies, legal entities with one hundred percent participation of the state, as well as the maintenance of the information analytical system "Electronic applications" shall be carried out in the manner established by the state body carrying out statistical activities within its competence in the field legal statistics and special records.

Proposals containing advertising, as well as applications received on the provision of public services, with the exception of applications provided for by subparagraph 3) of

paragraph 1 of Article 4 of the Law of the Republic of Kazakhstan "On public services", are not subject to consideration.

4. The heads of state bodies shall be personally responsible for organizing work with appeals from individuals and legal entities, the condition of office work.

#### **Article 70. Termination of administrative procedure**

1. Administrative procedure initiated based on an appeal shall be terminated in the presence of at least one of the following circumstances:

1) there is a decision of an administrative body, an official in administrative case in relation to a participant in an administrative procedure on the same subject and on the same basis as indicated in the appeal;

2) there is a judicial act that has entered into legal effect, passed in relation to the same person, on the same subject and on the same basis;

3) an appeal has been returned by an administrative body, an official;

4) an administrative body, an official has accepted the withdrawal of the appeal from the applicant;

5) there are other basis provided for by the laws of the Republic of Kazakhstan.

2. An administrative body, an official may terminate an administrative procedure initiated on its own initiative if the implementation of the administrative procedure has ceased to be necessary due to a change in the circumstances that served as the basis for its initiation, or on other basis provided for by the laws of the Republic of Kazakhstan.

3. Administrative procedure shall be terminated by a decision of an administrative body, an official, on which the participant in the administrative procedure shall be notified within three working days from the date of the decision.

4. A complaint may be filed against the decision to terminate the administrative procedure in the manner prescribed by this Code.

5. The applicant has the right to file a repeated appeal on the issue already considered in the manner established by this Code, if there are new arguments or newly discovered circumstances.

#### **Chapter 10. CONSIDERATION OF THE ADMINISTRATIVE CASE Article 71. Individual and collegial consideration of an administrative case**

Administrative case shall be considered by an official solely, and in cases stipulated by the legislation of the Republic of Kazakhstan, or by a decision of an administrative body - a collegial staff.

#### **Article 72. Investigation of the factual circumstances of administrative case**

1. An administrative body, an official shall be obliged to take measures for a comprehensive, complete, and objective study of the factual circumstances that are important for the correct consideration of administrative case.

2. The procedure and limits of investigation of the factual circumstances of administrative case shall be determined by an administrative body, an official, taking into account the opinions of participants in the administrative procedure.

3. An administrative body, an official shall not be bound by arguments, factual circumstances of the administrative case and verifies the administrative case in full.

4. An administrative body, an official shall have the right to collect evidence on their own initiative in order to establish the factual circumstances of the administrative case.

5. An administrative body, an official shall not be entitled to refuse to study applications and documents submitted by participants in the administrative procedure, the consideration of which is within their competence.

### **Article 73. Hearing**

1. An administrative body, an official shall provide an opportunity for a participant in an administrative procedure to express their position on a preliminary decision on administrative case, on which the participant in an administrative procedure shall be notified in advance, but no later than three working days before the adoption of the administrative act.

Hearing may be carried out by:

1) inviting a participant in an administrative procedure to a hearing in administrative case, including via videoconferencing or other means of communication;

2) use of information systems;

3) other means of communication that allow a participant in the administrative procedure to state their position.

2. The provisions of the first part of this Article may not apply in cases where:

1) an administrative body, an official adopts a favorable administrative act that does not affect the rights, freedoms and legal interests of other persons;

2) enforcement proceedings are carried out;

3) the legislation of the Republic of Kazakhstan establishes less than three days for the implementation of the administrative procedure;

4) immediate adoption of administrative act is required in order to protect the rights, freedoms of citizens and legal entities, public and (or) state interests;

5) a participant in the administrative procedure requests this;

6) simplified administrative procedure shall be carried out;

7) decision on administrative case is made during the implementation of an automated process, while an administrative body, an official is not endowed with administrative discretion.

In the case specified in subparagraph 4) of this part, the administrative body, the official shall indicate in the administrative act the reasons for which the hearing was not held.

3. A participant in an administrative procedure has the right to submit or raise an objection to a preliminary decision on administrative case no later than two working days from the date of its receipt.

4. If a participant in the administrative procedure orally expresses his (her) objection, the administrative body, the official shall keep the protocol of the hearing.

#### **Article 74. The protocol of the hearing**

1. The protocol of hearing shall be kept by computer, electronic, typewritten, or handwritten methods.

2. The protocol of the hearing shall indicate:

1) place and date of the consideration of the administrative case, the time of its beginning and end;

2) name of the administrative body, surnames and initials of the official, secretary;

3) information about the participant in the administrative procedure and (or) another person participating in the administrative case;

4) content of the issue under consideration;

5) content of explanations, questions and answers, speeches of the participants.

3. A participant in an administrative procedure and (or) another person participating in administrative case shall have the right to apply for the recording of information on the factual circumstances, which they consider essential for the consideration of administrative case, to be entered into the hearing record.

4. The protocol of the hearing shall be prepared and signed by the presiding officer and the secretary.

5. An administrative body, an official shall be obliged to provide a participant in an administrative procedure and another person participating in administrative case with the opportunity to be acquainted with the protocol of the hearing.

6. A participant in an administrative procedure and another person participating in administrative case, within three working days after familiarization, has the right to submit their comments to the protocol of the hearing.

Based on the results of consideration of the comments, the chairperson shall make a decision on their satisfaction or on their full or partial rejection.

#### **Article 75. Familiarization of the participant of the administrative procedure with the materials of the administrative case**

1. The participant in the administrative procedure must be given the opportunity to get acquainted with the materials of the administrative case after the consideration of the administrative case, no later than three working days from the date of the application.

2. When familiarizing a participant in an administrative procedure with the materials of administrative case, an administrative body, an official shall be obliged to ensure compliance with the legislation of the Republic of Kazakhstan on state secrets and other secrets protected by law.

3. A participant in an administrative procedure in the process of familiarizing with the materials of administrative case has the right to write out any information and in any volume, to make copies of documents, including using scientific and technical means, with the exception of information containing state secrets or other secrets protected by law.

#### **Article 76. Terms of the administrative procedure initiated based on the appeal**

1. The terms of the administrative procedure initiated based on the appeal shall be fifteen working days from the date of receipt of the appeal unless otherwise provided by the laws of the Republic of Kazakhstan.

2. The terms of the administrative procedure initiated based on the appeal shall be calculated from the moment of its initiation.

3. The terms of an administrative procedure initiated on the basis of an appeal may be extended by a reasoned decision of the head of the administrative body or his deputy for a reasonable period, but no more than two months in view of the need to establish factual circumstances that are important for the correct consideration of the administrative case, what the participant of the administrative procedure is notified of, within three working days from the date of the extension.

4. For unjustified extension of the terms of the administrative procedure, the person authorized to make a decision shall bear disciplinary and other liability in accordance with the laws of the Republic of Kazakhstan.

#### **Article 77. Types of decisions based on the results of consideration of administrative case**

1. Having considered administrative case, an administrative body, an official shall make one of the following decisions on:

- 1) adoption of administrative act;
- 2) termination of the administrative procedure.

2. At the end of the consideration of the administrative case, a decision shall be made in writing, which shall be sent to the participant in the administrative procedure.

#### **Chapter 11. ADMINISTRATIVE ACT Article 78. Forms of administrative acts**

1. Administrative act shall be adopted in written (paper and (or) electronic) form unless otherwise provided by the laws of the Republic of Kazakhstan.

2. Administrative act shall be adopted exclusively in written (paper and (or) electronic) form, if the administrative procedure is initiated based on an application.

3. Administrative act may be adopted orally or in another form if:

1) protection of the rights, freedoms of citizens and legal entities, public or state interests is required;

2) in other cases provided for by the laws of the Republic of Kazakhstan.

4. Administrative act, adopted orally or in another form, must be executed in written (paper and (or) electronic) form at the request of a participant in the administrative procedure within one working day from the date of such request.

#### **Article 79. General requirements for administrative act**

1. The administrative act must be legal and reasonable.

2. Administrative act must be clear for understanding, ensure uniform application, and exhaustively define the circle of persons to whom it applies.

#### **Article 80. Content of administrative act adopted in written (paper and (or) electronic) form**

1. Administrative act adopted in written (paper and (or) electronic) form shall indicate:

1) name of the administrative body, the surname and initials of the official who adopted the administrative act;

2) date of adoption of the administrative act;

3) information about the applicant: for individuals - last name, first name, patronymic (if it is indicated in the identity document), for legal entities - name, organizational and legal form;

4) description of the issues to be resolved upon adoption of the administrative act and the justification for the administrative act;

5) signature of the official.

2. Justification of administrative act adopted in written (paper and (or) electronic) form is not required in cases where:

1) an administrative body, an official adopts a favorable administrative act that does not affect the rights, freedoms and legal interests of other persons;

2) an administrative body, an official adopts identical administrative acts on one subject in more than five administrative acts continuously for thirty calendar days or publish administrative acts in the media, including posting on Internet resources, and there is no necessity for justification in each case;

3) in other cases stipulated by the laws of the Republic of Kazakhstan.

3. Administrative act, adopted in written (paper and (or) electronic) form, may contain attachments and other supporting documents, the validity of which may not exceed the validity period of the administrative act.

4. Annexes and other supporting documents shall be an integral part of the administrative act.

#### **Article 81. Notification of the participant in the administrative procedure**

1. Administrative act adopted in written (paper) form shall be brought to the attention of the participant in the administrative procedure in accordance with Article 66 of this Code.

2. Administrative act adopted in electronic form shall be brought to the attention of a participant in the administrative procedure in accordance with the legislation of the Republic of Kazakhstan.

3. Administrative act adopted orally shall be brought to the attention of the participant in the administrative procedure by means of his oral message.

4. Administrative act adopted in a different form shall be brought to the attention of the participant in the administrative procedure by making it accessible for visual and (or) auditory perception.

5. Administrative act that does not contain information constituting state secrets or other secrets protected by law shall be posted on Internet resources if information about the addressee of the administrative act is not known, as well as in other cases stipulated by the laws of the Republic of Kazakhstan.

#### **Article 82. Correction of misspellings and (or) arithmetic errors**

1. An administrative body, an official shall have the right, on his own initiative or at the request of a participant in an administrative procedure, to correct errors made in the administrative act and (or) arithmetic errors without changing the content of the administrative act.

2. An administrative body, an official has the right to request a document required for correction.

3. Consideration of an application for correction of clerical and (or) arithmetic errors shall be carried out within three working days from the date of receipt of the application.

4. Correction of the clerical and (or) arithmetic error shall be confirmed by the signature of the official.

5. A copy of the amended administrative act shall be sent to the participant in the administrative procedure within three working days from the date of the amendment of the administrative act.

#### **Article 83. Entry into force, enactment, and termination of administrative act**



1. Administrative act shall enter into force from the moment of its adoption unless a later date indicated in it.

2. Administrative act shall enter into force from the moment it shall be brought to the attention of a participant in the administrative procedure in the manner prescribed by Article 81 of this Code.

3. Administrative act shall cease to be effective from the moment of the occurrence of the events provided for by the administrative act, the fulfillment of its requirements, the cancellation of the administrative act or the expiration of the validity period.

#### **Article 84. Cancellation of illegal administrative act**

1. Violation of the legislation of the Republic of Kazakhstan on administrative procedures shall be the basis for the recognition of administrative act as illegal, if such a violation led or could have led to the adoption of an incorrect administrative act.

An essentially correct administrative act may not be recognized as illegal on only formal basis.

2. An illegal administrative act may be cancelled in whole or in part.

3. When an illegal administrative act is cancelled, a decision shall be made on the legal consequences of declaring the administrative act illegal.

Administrative act may be declared invalid both from the moment of adoption of such an act, and from the moment of its recognition as illegal.

4. An unlawful burdening administrative act is subject to mandatory cancellation.

5. When canceling an illegal favorable administrative act, the principle of protecting the right to confidence of a participant in the administrative procedure shall be taken into account.

6. A participant in an administrative procedure shall not have the right to refer to the principle of protection of the right to trust in cases where:

1) legal act on the basis of which the administrative act was issued has been declared as unconstitutional;

2) deliberately inaccurate document or information provided by the participant in administrative procedures has been established;

3) administrative act was adopted as a result of a participant in an administrative procedure committing unlawful actions established by a final sentence or a court ruling, a resolution of a prosecutor, a criminal prosecution body, a body (official) authorized to consider cases of administrative offenses;

4) administrative act affects the state or public interests, the security of the state, or may lead to grave irreversible consequences for the life and health of people.

7. An illegal favorable administrative act shall be cancelled only in the cases provided for by part six of this Article.

8. Harmful consequence resulting from the cancellation of an illegal favorable administrative act is subject to compensation to a participant in the administrative procedure,

whose right to trust is protected by the laws of the Republic of Kazakhstan, according to the rules of civil legislation of the Republic of Kazakhstan.

#### **Article 85. Cancellation of legal administrative act**

1. Administrative act adopted on the basis of and in accordance with the requirements of the legislation of the Republic of Kazakhstan shall be considered legal.

2. Legal administrative act may be cancelled in whole or in part.

3. An administrative body, an official may cancel the legal burdensome administrative act, except for cases when the laws of the Republic of Kazakhstan prohibit the cancellation of such an act.

4. Lawful favorable administrative act may be cancelled in cases where:

1) the possibility of canceling administrative act is provided for by the laws of the Republic of Kazakhstan and administrative act;

2) the administrative act was adopted with a condition, and this condition was not fulfilled or performed in an improper way.

#### **Article 86. Procedure and terms of execution of administrative act**

1. Administrative act is obligatory for all state bodies, local self-government bodies, legal entities, officials, citizens and is subject to execution.

2. Administrative act shall apply to execution by an administrative body, an official who adopted it unless otherwise provided by the laws of the Republic of Kazakhstan.

3. Administrative act is subject to execution within five working days unless otherwise provided by the laws of the Republic of Kazakhstan or administrative act.

#### **Chapter 12. SIMPLIFIED ADMINISTRATIVE PROCEDURE Article 87. Order of the implementation of a simplified administrative procedure**

1. Consideration of messages, proposals, responses, and requests shall be carried out in the manner of a simplified administrative procedure.

2. Simplified administrative procedure shall be carried out by a state body, a local self-government body, a legal entity with one hundred percent participation of the state and their officials in the manner established by this section, with the specifics established by this chapter.

3. For the purposes of this chapter, an applicant refers to a person who sent a message, proposal, response, or request to a state body, a local self-government body, a legal entity with one hundred percent participation of the state and their officials.

#### **Article 88. Termination of simplified administrative procedure**

1. Simplified administrative procedure shall be terminated if at least one of the following circumstances exists:

1) new arguments or newly discovered circumstances are not provided in repeated messages, proposals, responses, inquiries, and there are necessary verification materials in the materials of the previous message, proposal, response, request and the applicant was given answers in the prescribed manner;

2) it is impossible to establish authorship in a message, proposal, response, request, there is no signature, including an electronic digital signature, the applicant's postal address, except for cases when they contain information about impending or committed criminal offenses or about a threat to state or public security that are subject to immediate redirection to state bodies in accordance with their competence;

3) essence of the issue is not stated in the message, proposal, response, request.

2. The decision to terminate the simplified administrative procedure shall be made by the head of the entity considering the message, proposal, response, request, or his deputy.

3. Complaint may be filed against the decision to terminate the simplified administrative procedure in accordance with the procedure established by this Code.

#### **Article 89. Types of decisions based on the results of consideration of administrative case in a simplified administrative procedure**

1. Based on the results of consideration of administrative case in a simplified administrative procedure, one of the following decisions shall be made on:

1) providing a response, including information, on the merits of a message, proposal, response, request;

2) taking note;

3) termination of the simplified administrative procedure.

2. Responses to a message, proposal, response, request must be substantiated and motivated in the state language or the language of appeal with reference to the legislation of the Republic of Kazakhstan, contain specific facts refuting or confirming the arguments of the applicant, with an explanation of his right to file a complaint against the adopted decision.

3. The entities considering the message, proposal, response, request, and officials notify the applicant about the results of the consideration of the administrative case and the measures taken.

#### **Article 90. Personal reception of individuals and representatives of legal entities**

1. The heads of state bodies, local self-government bodies, and their deputies are obliged to conduct a personal reception of citizens and representatives of legal entities, including employees of these bodies, at least once a month according to the reception schedule approved by the head of the relevant state body.

2. Reception shall be held at the place of work on the days and hours established and communicated to individuals and legal entities.

3. If the appeal may not be resolved by the official during the reception, it shall be stated in writing and the work shall be carried out with it as with a written appeal.

### **Chapter 13. APPEAL PROCEDURE. SUBMITTING A COMPLAINT Article 91. Appeal procedure**

1. A participant in administrative procedure has the right to appeal against administrative act, administrative action (inaction) not related to the adoption of administrative act, in administrative (pre-trial) manner.

In the cases provided for by this Code, a participant in administrative procedure has the right to appeal against administrative action (inaction) associated with the adoption of administrative act.

2. If an administrative body, an official, within the terms established by this Code, did not adopt administrative act, did not perform administrative action, in this case, from the date of expiration of the term, it shall be considered that the administrative body, an official refused to adopt the administrative act, or to perform administrative action.

3. A higher administrative body, an official (hereinafter referred to as the Body considering the complaint), shall carry out Consideration of a complaint in administrative (pre-trial) manner.

For the purposes of this Code, the body considering a complaint shall be recognized an administrative body, an official, with the exception of the President of the Republic of Kazakhstan, the Prime Minister of the Republic of Kazakhstan, the Government of the Republic of Kazakhstan, who are superior in the order of subordination to the administrative body, an official whose administrative act, administrative action (inaction) is appealed, as well as another administrative body, official authorized in accordance with the laws of the Republic of Kazakhstan to consider complaints.

4. A complaint shall be filed with an administrative body, an official whose administrative act, administrative action (inaction) is being appealed.

An administrative body, an official whose administrative act, administrative action (inaction) is appealed, no later than three working days from the date of receipt of the complaint, shall send it and the administrative case to the body considering the complaint.

Therewith an administrative body, an official whose administrative act, administrative action (inaction) is being appealed has the right not to send a complaint to the body considering the complaint, if within three working days it adopts a favorable administrative act, performs administrative action that fully meets the requirements specified in the complaint.

5. Unless otherwise provided by law, an appeal to the court is allowed after an appeal in a pre-trial order. If the law provides for the possibility of applying to the court without the need

to appeal to a higher authority, an administrative body, an official, an administrative act, an administrative action (inaction) which are being challenged, along with the recall, submit to the court a reasoned position of the head of a higher administrative body, an official.

6. In the absence of a higher administrative body, an official, administrative act, administrative action (inaction) may be appealed in court, which is notified to the participant in the administrative procedure by the administrative body, whose administrative act, administrative action (inaction) is appealed when a decision is made on administrative case.

7. Consideration of complaints by the prosecutor's office is carried out on the grounds, within the limits and in the manner established by the Constitutional Law of the Republic of Kazakhstan "On the Prosecutor's Office".

**Footnote. Article 91 as amended by the Law of the Republic of Kazakhstan dated 05.11.2022 No. 157-VII (shall be enforced ten calendar days after the date of its first official publication); dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication).**

#### **Article 92. Term for filing complaint**

1. A complaint against administrative act, administrative action (inaction) shall be filed with an administrative body, an official no later than three months from the day when the participant in the administrative procedure learnt of the adoption of administrative act or the commission of administrative action (inaction).

2. In case of missing, for a good reason, the deadline established by the first part of this Article, this deadline, at the request of a participant in the administrative procedure, may be restored by the body considering the complaint unless otherwise provided by the laws of the Republic of Kazakhstan.

In order to restore the missed deadline for filing a complaint, the body considering the complaint shall recognize illness, force majeure circumstances, and other reasons that deprive a person of the opportunity to file a complaint as valid reasons.

3. The missed deadline for appeal shall not be a ground for refusal to adopt the complaint by the body considering the complaint. The reasons for missing the deadline shall be investigated during the consideration of the complaint and may be one of the bases for refusing to satisfy the complaint.

#### **Article 93. Form and content of the complaint**

1. The complaint shall be submitted in written (paper and (or) electronic) form.
2. The complaint shall indicate:
  - 1) name of the body considering the complaint;

2) last name, first name, patronymic (if it is indicated in the identity document), individual identification number, postal address of an individual or name, postal address, business identification number of a legal entity;

3) address of the physical person's actual residence and the location of the legal entity;

4) name of the administrative body, official, whose administrative act, administrative action (inaction) is disputed;

5) the circumstances on which the participant in the administrative procedure bases his demands and evidence;

6) date of filing the complaint;

7) signature of the participant in the administrative procedure;

8) list of documents attached to the complaint;

9) other information provided by the legislation of the Republic of Kazakhstan.

#### **Article 94. Acceptance, registration, return, and withdrawal of a complaint**

1. Acceptance, registration, accounting, return, and withdrawal of a complaint shall be carried out in accordance with the provisions of Article 64 of this Code.

2. After registering the complaint, the participant in the administrative procedure must be explained his rights and obligations when considering the complaint.

#### **Article 95. Leaving a complaint without consideration**

1. The body considering the complaint shall reject the complaint if:

1) there is a decision of the body considering the complaint based on the results of the consideration of the complaint against a participant in the administrative procedure on the same subject and on the same basis specified in the complaint;

2) there is a judicial act that has entered into legal force, passed in relation to the same person, on the same subject and on the same basis;

3) the complaint has been returned by the body considering the complaint;

4) the body considering the complaint accepted the withdrawal of the complaint from the applicant.

2. A participant in the administrative procedure shall be notified within three working days from the day, the body considering the complaint, takes a decision to reject the complaint.

3. After elimination of the circumstances that served as the basis for rejecting the complaint, the participant in the administrative procedure has the right to re-submit the complaint.

#### **Article 96. Consequences of filing a complaint**

Filing a complaint shall suspend the execution of administrative act, administrative action, except for:

- 1) the necessity to protect the rights of citizens and legal entities, public or state interests;
- 2) administrative act accepted by the authorized body for regulation, control and supervision of the financial market and financial organizations or the National Bank of the Republic of Kazakhstan within its competence, to suspend actions and (or) revoke licenses to operate in the financial market, to conserve financial organizations, its written instructions, administrative act accepted by the authorized body for regulation, control and supervision of the financial market and financial organizations or the National Bank of the Republic of Kazakhstan within its competence, on the application of supervisory response measures (except for recommendatory supervisory response measures), on the classification of the bank, a branch of a non-resident bank of the Republic of Kazakhstan as a bank with an unstable financial situation that poses a threat to the interests of its depositors and creditors and (or) a threat to the stability of the financial system, to classify the bank, a branch of a non-resident bank of the Republic of Kazakhstan, as insolvent banks, branches of a non-resident bank of the Republic of Kazakhstan and apply a settlement measure to it in accordance with the Law of the Republic of Kazakhstan "On Banks and Banking Activities in the Republic of Kazakhstan", as well as administrative acts of governmental audit and financial control bodies related to the revealed facts of inappropriate and unjustified use of budgetary funds, prior to making an appropriate decision;
- 3) in other cases stipulated by the laws of the Republic of Kazakhstan.

**Footnote. Article 96 as amended by the Law of the Republic of Kazakhstan dated 03.01.2022 No. 101-VII (shall be enforced upon expiry of sixty calendar days after the date of its first official publication)**

#### **Chapter 14. PROCESSING A COMPLAINT Article 97. Individual and collegial processing a complaint**

1. A complaint shall be considered by an official solely, and in cases stipulated by the legislation of the Republic of Kazakhstan, or by decision of an administrative body - by a collegiate staff.

2. An official whose administrative act or administrative action (inaction) is being appealed may not be admitted to the consideration of the complaint, except for the following cases:

- 1) when this person is included in the collegial composition of the body considering the complaint;
- 2) provided for by part four of Article 91 of this Code.

#### **Article 98. General rules for processing a complaint**

1. The body considering the complaint is obliged to take measures for a comprehensive, complete and objective investigation of the factual circumstances that are important for the correct consideration of the complaint.

2. The subject and limits of the investigation of the factual circumstances shall be determined by the body considering the complaint.

3. The body considering the complaint shall hear the official, whose administrative act, administrative action (inaction) is contested, a participant in the administrative procedure in accordance with Article 73 of this Code.

4. The body considering the complaint is not bound by the arguments of the administrative body, the official whose administrative act, administrative action (inaction) is being appealed; a participant in the administrative procedure, as well as the requirements set forth in the complaint, and verifies the administrative case in full.

5. The body considering the complaint shall provide the opportunity to get acquainted with the administrative case in accordance with Article 75 of this Code.

6. Making a complaint to the detriment of the applicant shall be prohibited.

#### **Article 99. Term for consideration a complaint**

The term for consideration of a complaint shall be twenty working days from the date of receipt of the complaint.

#### **Chapter 15. DECISION ON THE COMPLAINT Article 100. Types of decisions based on the results of processing a complaint**

1. Having considered the complaint, the body considering the complaint shall make one of the following decisions:

1) on cancellation of the administrative act;

2) on cancellation of the administrative act and adoption of a new administrative act;

3) on commission of administrative action;

4) on leaving the complaint without satisfaction;

5) on direction of the administrative case to an administrative body, to an official whose administrative act, administrative action (inaction) is being appealed, for the implementation of the administrative procedure, indicating the violations committed and proposals for their elimination;

6) on rejection of the complaint.

2. The body considering the complaint shall make a decision provided for in subparagraphs 1), 2) and 3) of the first part of this Article, if the adoption of administrative act, the commission of administrative action is within the competence of the body considering the complaint.



The body considering the complaint shall send the complaint to the administrative body, to the official whose administrative act, administrative action (inaction) is being appealed, for the implementation of the administrative procedure no later than five working days from the date of the decision, indicating the violations and proposals for their elimination in case the adoption of the relevant act, the commission of administrative action does not fall within the competence of the body considering the complaint.

3. The basis for making a decision provided for in subparagraphs 1), 2), 3) and 5) of the first part of this Article shall be:

incorrect determination and clarification of the range of circumstances that are important for the correct consideration of administrative case;

inconsistency of the content of the administrative act, administrative action (inaction) with the materials of the administrative case;

violation or incorrect application of the legislation of the Republic of Kazakhstan.

4. Upon completion of the consideration of the complaint on the merits, a decision shall be made in writing, which shall be sent to the participant in the administrative procedure, and a copy of the decision shall be sent to the administrative body, the official whose administrative act, administrative action (inaction) is being appealed.

The refusal to satisfy the complaint must be motivated.

The decision of the body considering the complaint is binding.

5. If the body considering the complaint, within the time limits established by this Code, did not make a decision on the results of the consideration of the complaint, then from the date of expiration of the time limits, it shall be considered that the body considering the complaint has refused to satisfy the complaint.

6. In case of disagreement with the decision of the body considering the complaint, the participant in the administrative procedure has the right to appeal the administrative act, administrative action (inaction) to another body considering the complaint, or to the court.

#### **Article 101. Content of the decision based on the results of processing a complaint**

1. The decision based on the results of the consideration of the complaint shall indicate:

1) date of the decision;

2) name of the body considering the complaint;

3) information on the person who filed the complaint: for individuals - surname, name, patronymic (if it is indicated in the identity document), individual identification number, for legal entities - name, organizational and legal form, business identification number for legal persons (branch and representative office);

4) summary of the contested administrative act, administrative action (inaction);

5) essence of the complaint;

6) justification with reference to the norms of the legislation of the Republic of Kazakhstan, which the body considering the complaint was guided by when making a decision on the complaint.

2. The decision may also contain other information provided for by the legislation of the Republic of Kazakhstan and (or) relevant for the correct consideration of the complaint, as well as serving as the basis for the decision.

## **SECTION 4. ADMINISTRATIVE LEGAL PROCEEDINGS Chapter 16. JURISDICTION OF CASES**

### **Article 102. Jurisdiction of administrative cases**

1. Administrative proceedings are carried out by specialized district and equivalent administrative courts.

At the request of the plaintiff, cases referred to the jurisdiction of a specialized district and equivalent administrative court may be considered by a court at the place of residence of the plaintiff, with the exception of cases within the jurisdiction of specialized district and equivalent administrative courts located within cities of republican significance and the capital, regional centers.

2. Courts shall have jurisdiction over disputes arising from public law relations provided for by this Code in the course of administrative proceedings.

3. The specialized inter-district administrative court of the capital considers claims of investors specified in part 1-2 of Article 27 of the Civil Procedure Code of the Republic of Kazakhstan on appeal of administrative acts, administrative actions (inaction) of administrative bodies, officials.

**Footnote. Article 102 as amended by the Law of the Republic of Kazakhstan dated 20.03.2021 No. 20-VII (shall be enforced 01.07.2021); as amended by the Law of the Republic of Kazakhstan dated 05.11.2022 No. 157-VII (shall be enforced ten calendar days after the date of its first official publication).**

### **Article 103. Jurisdiction of administrative cases to military courts**

Military courts shall consider administrative cases on lawsuits of service members of the Armed Forces of the Republic of Kazakhstan, other troops and military formations, citizens undergoing military training, if the defendant is the military command and control bodies, a military unit, with the exception of cases within the jurisdiction of other specialized courts.

If a military court is not formed on the territory of the corresponding administrative-territorial unit, the administrative cases referred to its jurisdiction shall be considered by specialized regional and administrative courts equivalent to them in the manner prescribed by this Code.

### **Article 104. Administrative cases within the jurisdiction of the regional and equivalent courts**

Regional and equivalent courts shall consider administrative cases on appeal.

#### **Article 105. Jurisdiction of administrative cases to the Supreme Court of the Republic of Kazakhstan**

1. The Supreme Court of the Republic of Kazakhstan, according to the rules of the court of first instance, shall consider administrative cases on challenging decisions and actions (inaction) of the Central Election Commission of the Republic of Kazakhstan, decisions, and actions (inaction) of the Central Referendum Commission.

2. Judicial acts on administrative cases in cassation are subject to consideration by the Supreme Court of the Republic of Kazakhstan.

#### **Article 106. Territorial jurisdiction of administrative cases**

1. Administrative cases are subject to consideration at the place of issuance of the administrative act or at the location of the defendant.

2. An administrative act issued outside the Republic of Kazakhstan is subject to consideration in a specialized inter-district administrative court of the capital.

3. Administrative act issued in the form of an electronic document shall be considered at the place of residence (location) of the plaintiff.

4. Lawsuit against an administrative body arising from the activities of its territorial subdivision, branch, representative office, shall be filed in court at the location of the territorial subdivision, branch, and representative office.

**Footnote. Article 106 as amended by the Law of the Republic of Kazakhstan dated 05.11.2022 No. 157-VII (shall be enforced ten calendar days after the date of its first official publication).**

#### **Article 107. Jurisdiction by the interrelation of cases and at the option of the parties**

1. The lawsuit against several defendants may be filed at the location of one of the defendants. The choice between several courts, which, according to this Article, has jurisdiction over the case, shall belong to the plaintiff.

2. The parties may, by agreement between themselves, change the territorial jurisdiction for a given administrative case, including for administrative cases pending before the court, prior to the appointment of the administrative case for proceedings in the court session.

3. The lawsuit for compensation for damages caused by the defendant, coupled with administrative act, administrative action (inaction), shall be considered by a specialized district and administrative court equivalent to it.

4. The lawsuit for compensation for moral damage shall be considered in the order of civil proceedings.

5. Several lawsuits may be united by the plaintiff in one lawsuit if they are filed against one defendant, are related to each other and their consideration is within the competence of one court.

6. It shall be prohibited to combine in one proceeding, several lawsuits, which are subject to consideration in the order of different types of legal proceedings unless otherwise established by this Code. Therewith lawsuits that are not related to public law disputes and are not subject to separation must be singled out and sent, according to jurisdiction, to the appropriate district (city) court.

#### **Article 108. Transfer of administrative case from the proceedings of one court to another court**

1. Administrative case accepted for court proceedings in compliance with the rules of jurisdiction and scheduled for consideration in a court session shall be considered by it on its merits, even if in the course of its consideration it became jurisdictional to another court.

2. Court shall transfer administrative case to another court if:

1) in considering administrative case in this court, it turned out that it was accepted for proceedings in violation of the rules of jurisdiction;

2) after the challenge of one or several judges or for other reasons, replacement of judges or consideration of administrative case in this court becomes impossible;

3) there are basis provided for by part two of Article 107 of this Code.

3. On the transfer of administrative case to another court or on the refusal to transfer administrative case to another court, a court ruling shall be issued, which may be appealed. The transfer of administrative case to another court shall be carried out after the expiration of the appeal period, and in the case of a complaint, after a court ruling has been issued to dismiss the complaint.

If both parties agree with the jurisdiction determined by the court on their written request, the transfer of administrative case from one court to another shall be made immediately after the ruling has been issued.

#### **Article 109. Resolution of disputes on jurisdiction**

1. Disputes on jurisdiction between the courts shall be settled by a higher court, the decision of which is final and not subject to revision.

2. Dispute between courts of first instance located in different regions, cities of republican significance and the capital shall be resolved by the Supreme Court of the Republic of Kazakhstan upon the presentation of the relevant regional or equivalent court.

### **Chapter 17. GENERAL INITIATIONS IN ADMINISTRATIVE LEGAL PROCEEDINGS Article 110. Immediacy and oral proceedings of the legal proceedings**

1. Judicial proceedings in administrative cases in courts shall be carried out orally, with the exception of proceedings in administrative cases considered in accordance with Chapter 23 of this Code.

Evidence in administrative cases in court proceedings is subject to direct research. The court must hear the explanations of the parties and other participants in the administrative process, testimony of witnesses and experts, examine material evidence, learn written evidence and other documents, listen to sound recordings and view video recordings, films, photographs, learn materials on other media, as well as make other actions to investigate evidence.

In exceptional cases, if it is impossible to directly hear the oral testimony (explanations) of the participants in the administrative process, the court has the right to read out their testimonies (explanations) obtained in the course of the administrative procedure.

2. In necessary cases, when examining evidence in administrative case, the court shall hear consultations and explanations of a specialist.

3. Hearing of explanations of the parties, other participants in the administrative process, testimony of witnesses, opinions of experts, specialists may be carried out by the court via videoconference.

4. Final decisions in administrative case may be based only on the evidence that was directly examined in the court session, with the exception of documents containing state secrets or other secrets protected by law.

#### **Article 111. Invariability of the court composition in the proceedings of administrative case**

1. Administrative case must be heard by the same judge or the composition of the court.

2. If the judge is unable to participate in the proceedings, another judge shall replace him (her), and the proceedings of the administrative case shall start over.

Replacement of a judge or several judges shall be possible in case of:

1) declared and satisfied self-disqualification or disqualification of a judge in the manner established by the Civil Procedure Code of the Republic of Kazakhstan;

2) long absence of a judge due to illness, vacation, study, or being on a business trip;

3) termination or suspension of the powers of a judge on the basis provided for by the Constitutional Law of the Republic of Kazakhstan "On the judicial system and the status of judges in the Republic of Kazakhstan".

3. It shall not be considered as a substitute for a judge to perform procedural actions by another judge in urgent cases, including consideration of an application for securing a lawsuit, postponement of court proceedings.

#### **Article 112. Participation in legal proceedings**

1. Legal proceedings shall take place with the obligatory participation of the defendant, except for the cases provided for in part two of this Article.

If the defendant fails to appear, the court shall postpone the consideration of the administrative case.

The court has the right to subject the defendant to a monetary penalty, and in case of repeated failure to appear, to consider the administrative case in his (her) absence.

2. The proceeding of administrative case in the absence of the defendant may be admitted if this does not interfere with the full, objective, and comprehensive consideration of the administrative case.

3. The court is obliged to provide the plaintiff with the opportunity to participate directly in the proceedings. The failure of the latter to appear for unjustifiable reasons shall not be considered as an obstacle for consideration of the administrative case in his (her) absence.

4. Interested parties may be involved in administrative case at the initiative of a court or at the request of a participant in an administrative proceeding.

### **Article 113. Notification (notice) in the administrative process**

1. Participants in the administrative proceeding shall be notified of the time and place of the consideration of the case or the performance of individual procedural actions and shall be summoned to the court by notifications (notices) no later than the next working day from the date of the respective ruling or from the date of the appointment of the date of the trial.

The notification is sent by telephone message, to the user's account on the e-government web portal with a short text message to the cellular subscriber number registered on the e-government web portal, a text message to the cellular subscriber number or by e-mail, telegram or a registered mail with a notification of its delivery or using other means of communication that ensure the recording of a notification or call.

If the person does not actually reside at the address indicated in the administrative case, the notification (notice) may be sent to the legal address or to the place of his work. Notification (notice) addressed to a legal entity shall be sent to the place of its registration and (or) actual location.

2. Notification (notice) will be considered properly delivered and reliable in the following cases:

1) sending a text message to a cellular subscriber number or to an email address that the notified person indicated during the administrative proceedings and confirmed with his signature, as well as to the user's account on the e-government web portal with sending a short text message to the cellular subscriber number registered on the "e-government" web portal;

2) notifying the person by telegram, which is handed to him personally or to one of the adult family members living with him against receipt on the note to be returned to the sender, by registered mail.

Notification (notice) addressed to a legal entity shall be handed to the head or employee of the legal entity, who shall sign for receipt of the notification (notice) of delivery, indicating his surname, initials and position;

3) directions in a different way that allows to record (certify) the fact of proper delivery of the notification (notice).

Any other notification (notice) may not be considered sufficient for the conduct of procedural actions and decision-making.

Persons participating in the administrative process shall confirm with their signature that they have voluntarily indicated the address of their place of residence (location), place of work, mobile phone number, e-mail address, voluntarily indicated earlier in the course of administrative legal proceedings in a procedural and other document, and the notification (notice) sent to the specified contacts (address) will be considered appropriate and sufficient.

3. If the addressee refuses to accept the notification (notice), the person delivering or handing it over shall make an appropriate note on the notification (notice), which is returned to the court. The court has the right to consider such a notification (notice) delivered properly.

4. Notification (notice) must contain:

1) name and exact address of the court;

2) time and place of the court session or the conduct of a separate procedural action;

3) name of the administrative case on which the addressee is notified;

4) indication of the person summoned or notified to the court (last name, first name, patronymic (if it is indicated in the identity document) and place of residence of the person, or the name of the body or legal entity and its location) to whom the notification (notice) is addressed, and also the status in administrative case;

5) indication of what actions and by what term the summoned or notified person is entitled or obliged to perform;

6) indication of the obligation of the person who received the notification (notice) in connection with the absence of the addressee to deliver it to the addressee as soon as possible;

7) indication of the consequences of failure to appear in court and the obligation to inform the court of the reasons for failure to appear;

8) signature of the person who sent the notification (notice).

**Footnote. Article 113 as amended by the Law of the Republic of Kazakhstan dated 06.02.2023 No. 194-VII (shall be enforced from 01.04.2023).**

#### **Article 114. Appearance in person**

1. Participants in an administrative proceeding must appear in court.

The court may order any person involved in the administrative case to appear in person.

2. Participants in an administrative proceeding shall have the right in writing, including in the form of an electronic document certified by means of an electronic digital signature, to

ask the court to consider the administrative case in their absence and to send them a copy of the judicial act.

#### **Article 115. Proceeding of administrative case in the absence of persons whose attendance is compulsory**

1. The failure to appear of the persons participating in the administrative case shall not constitute an obstacle to the holding of the court session, provided that they are properly notified.

If the persons whose participation has been recognized by the court as compulsory fail to appear, the court shall have the right to apply procedural enforcement measures to them in accordance with Chapter 18 of this Code.

2. The postponement of the proceeding of administrative case is allowed if the court finds it impossible to consider the administrative case in this court session due to the failure of any of the participants in the administrative proceeding or their representatives to appear, in cases of a change in the subject and basis of the lawsuit, as well as bringing new participants in the administrative case to the administrative proceeding.

#### **Article 116. Frames of legal proceedings in administrative cases**

1. In determining the subject of the lawsuit, the court is not bound by the wording of the lawsuit, the text of the lawsuit and the documents attached thereto or presented later.

The court has the right to assist a party in formulating and (or) changing lawsuits with a preliminary explanation of the legal consequences.

The court is not bound by the stated basis of the lawsuit, but it has no right to go beyond the frame of the lawsuit.

2. The court is obliged in the course of the trial to check whether the limits of administrative discretion and their compliance (proportionality) with the goals of adopting administrative act established by the legislation of the Republic of Kazakhstan are not exceeded.

#### **Article 117. General rules for administrative legal proceedings**

Administrative legal proceedings shall consist in the sequential passage of the following main stages:

- 1) registration of a lawsuit in court;
- 2) actions of the court on the received administrative case and the preliminary hearing;
- 3) legal proceedings;
- 4) issuance of a court decision, its announcement and explanation;
- 5) execution of the court decision and judicial control.

#### **Article 118. Court ruling**



1. The act of the court, which does not resolve the administrative case on the merits, shall be issued in the form of a ruling. The rulings may be made by the court both in the court session and outside the court session.

2. On simple issues, the court issues a ruling without leaving the courtroom, which shall be entered into the protocol.

3. The ruling, rendered in the form of a separate procedural document, must indicate:

1) date and place of the ruling;

2) name of the court that issued the ruling, the composition of the court and the surname and initials of the secretary of the court session;

3) participants in the administrative proceeding and the subject of the dispute;

4) issue on which the ruling is made;

5) reasons for which the court came to its conclusions, and a reference to the laws of the Republic of Kazakhstan, which the court was guided by;

6) procedural decision;

7) procedure and term for appealing the ruling, if it is subject to appeal.

4. The ruling, which is made in the courtroom, must contain the information listed in subparagraphs 4), 5) and 6) of part three of this Article.

5. When a ruling is made during an oral hearing, the ruling or its operative part shall be announced immediately after the ruling. The definition in the final form may be made no later than five working days after the announcement of its operative part.

### **Article 119. Prejudice**

1. A court decision on administrative case that has entered into legal force is binding on all administrative bodies, officials, individuals, and legal entities in relation to both the established circumstances and their legal assessment in relation to the person about whom it was made. This provision shall not preclude the verification, cancellation, or change of the court decision and other judicial acts in the appeal and cassation procedures.

2. A court decision on administrative case that has entered into legal force is binding on any court and body when establishing facts relevant to the case and factual data established without evidence.

### **Article 120. Conciliation procedures**

1. The parties, based on mutual concessions, may fully or partially complete the administrative case by concluding an agreement on conciliation, mediation, or settlement of a dispute in a participatory procedure at all stages (levels) of the administrative process until the court is removed for a decision.

Reconciliation of the parties shall be allowed if the defendant has administrative discretion.

2. Settlement of a dispute through mediation and participatory procedure in court shall be carried out in accordance with this Code and the legislation of the Republic of Kazakhstan.

3. An agreement on conciliation, mediation, or dispute settlement through a participatory procedure shall be concluded in writing and signed by the parties or their representatives.

4. An agreement on conciliation, mediation, or dispute settlement through a participatory procedure must comply with the enforceability requirements and contain the conditions under which the parties reached reconciliation, as well as the procedure for the distribution of court costs, including the costs of representatives' services.

5. A petition by the parties to approve an agreement on conciliation, mediation or to settle a dispute in a participatory procedure shall be considered by the court in a court session or at a preliminary hearing.

Based on the results of consideration of a petition to approve an agreement on conciliation, mediation or to settle a dispute in a participatory procedure, the court shall issue a ruling to approve such an agreement or refuse.

6. When the court approves the agreement of the parties on conciliation, mediation or on the settlement of the dispute in a participatory procedure, it shall issue a ruling on the return of the lawsuit in full or in the relevant part.

7. Agreement on conciliation, mediation, or settlement of a dispute in a participatory procedure, not executed voluntarily, is subject to compulsory execution based on a writ of execution issued by the court at the request of the person who entered into the agreement.

8. The court (judge) shall take measures to reconcile the parties, assist them in settling the dispute at all stages of the process.

9. The court shall not approve an agreement on conciliation, mediation or the settlement of a dispute through a participatory procedure if its terms contradict the law or violate the rights, freedoms, and legitimate interests of others.

10. If the parties have not reached an agreement on conciliation, mediation, or settlement of the dispute in a participatory procedure or the terms of the agreement have not been approved by the court, the administrative case shall be considered in a general manner.

#### **Article 121. Procedure for mediation in the court**

1. For mediation in the court of first instance, the administrative case shall be transferred to another judge, who shall approve the mediation agreement.

At the request of the parties, a judge who is in charge of the administrative case may carry out mediation.

For mediation in the court of appeal, administrative case is usually transferred to one of the judges of the collegial composition of the court.

In the court of cassation, simultaneously with the petition for the settlement of the dispute (conflict) by concluding a mediation agreement, the parties must submit the said agreement.

2. The judge, who conducts the mediation, shall appoint the day of the mediation and shall notify the parties of the time and place of the mediation.

The court has the right to summon other persons for mediation if their participation will contribute to the settlement of the dispute (conflict).

3. The protocol of mediation in the court shall not be kept.

#### **Article 122. Legal expenses in administrative cases**

1. Questions on the distribution of court costs shall be considered according to the rules of the Civil Procedure Code of the Republic of Kazakhstan.

2. When the lawsuit is returned on the basis provided for in subparagraphs 5), 6), 12), 13), 14) and 15) of the second part of Article 138 of this Code, court costs shall not be reimbursed.

#### **Chapter 18. MEASURES OF PROCEDURAL ENFORCEMENT Article 123. Types of measures of procedural enforcement**

Measures of procedural enforcement shall include:

- 1) comment;
- 2) removal from the courtroom;
- 3) monetary penalty.

#### **Article 124. Basis and procedure for applying measures of procedural enforcement**

1. The application of measures of procedural enforcement, provided for in subparagraphs 1) and 2) of Article 123 of this Code, shall be entered into the protocol of the court session.

2. The court shall issue a ruling on the application of a measure of procedural enforcement provided for by subparagraph 3) of Article 123 of this Code.

An appeal against this ruling shall not suspend the execution of measures of procedural enforcement. Submission of a private complaint about the application of a monetary penalty shall be allowed after the execution of the imposed penalty.

3. If the selected measure of procedural enforcement has not yielded results, it shall be allowed to apply another measure of procedural enforcement. Measures of procedural enforcement may be applied repeatedly.

4. The application of measures of procedural enforcement to a person shall not relieve this person from the performance of the relevant duties established by this Code.

5. If in the actions of the violator of the order in the court session there are signs of a criminal offense, the court shall send the materials to the prosecutor to decide on the start of the pre-trial investigation.

#### **Article 125. Comment**

The presiding judge has the right to announce a comment to the person who violates the order in the courtroom. Therewith the presiding judge shall explain the possibility of applying a stricter measure of enforcement against him in case of repetition.

#### **Article 126. Removal from the courtroom**

1. If a person participating in the administrative process violates the order in the courtroom after announcing a comment to him, the presiding judge shall have the right to remove him for the entire period of consideration of the administrative case or for part of it.

2. Other persons present who violate the order may be removed by order of the presiding judge without prior announcement of an oral comment.

#### **Article 127. Monetary penalty**

1. The court shall impose a monetary penalty in the cases established by this Code.

2. Monetary penalty shall be imposed on an individual, official, legal entity or its representative in the amount of ten to one hundred monthly calculation indexes. The court shall issue a ruling on the imposition of a monetary penalty, a copy of which shall be handed over to the person on whom the monetary penalty is imposed.

Consideration of the issue of imposing a monetary penalty shall be carried out in a court session with prior notification of the person in respect of whom the monetary penalty is applied.

3. The court has the right to impose a monetary penalty on a person who abuses procedural rights or does not perform procedural duties, including in cases of presentation of evidence, execution of orders in violation of the time limit established by the court without good reason, if this has led to a delay in the consideration of administrative case, for each action (inaction) in the amount of ten monthly calculation indexes.

4. For failure to comply with a request, a court request, failure to appear in court of a person participating in administrative case, untimely notification of the court, untimely submission of a response, disobedience to the orders of the presiding judge, violation of the rules established in the court, as well as other actions (inaction) that clearly indicate the contempt against the court and (or) the judge, the court shall have the right to impose a monetary penalty in the amount of up to twenty monthly calculation indexes.

5. For failure to comply with a court decision, a court ruling on the approval of an agreement of the parties on conciliation, mediation or on the settlement of a dispute in a participatory procedure, the court shall impose a monetary penalty on the defendant in the amount of fifty monthly calculation indexes, indicating in the same judicial act a period not exceeding one month, during which it is subject to execution.

6. Payment of the monetary penalty shall be carried out within five working days from the date of delivery of the ruling and it shall be collected in the income of the republican budget.

7. The person on whom the monetary penalty has been imposed has the right to apply to the court with a petition to release him from payment or to reduce the amount of the monetary penalty.

The application shall be considered in the court session with the summons of the applicant

8. When imposing a monetary penalty, the court has the right to postpone or extend the execution of the ruling for up to two months.

9. In case of failure to comply with a judicial act or a court demand specified in parts three and four of this Article, the court shall have the right to impose a repeated monetary penalty on the person in an amount increased by ten monthly calculation indexes.

**Footnote. Article 127 as amended by the Law of the Republic of Kazakhstan dated 20.12.2021 No. 83-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

## **Chapter 19. EVIDENCE AND PROOF Article 128. Procedure and specificities of legal regulation of evidence and the process of proof**

The procedure for the legal regulation of evidence, factual data not admissible as evidence, the subject of evidence and sources of evidence, as well as the collection, research, assessment and use of evidence (proof) and other provisions on evidence and proof shall be determined by the norms of the Civil Procedure Code of the Republic of Kazakhstan, with the exception of specificities established by this Code.

### **Article 129. Burden of proof**

1. The plaintiff, in accordance with his capabilities, is obliged to participate in the collection of evidence. Regardless of the type of lawsuit filed, the plaintiff must prove the time when he became aware of the violation of his rights, freedoms and legitimate interests, as well as the amount of losses incurred.

2. The burden of proof shall be borne:

- 1) in lawsuit for challenging - by the defendant accepted burdensome administrative act;
- 2) in lawsuit for enforcement - by the defendant in terms of the facts that became the basis for refusal to accept the requested administrative act, and by the plaintiff in terms of the facts that justify the adoption of administrative act favorable to him.

If the respondent refers to the existence of factual conditions precluding the issuance in a specific case of the administrative act desired by the plaintiff, the burden of proof such conditions shall lie with the respondent;

3) in lawsuit for action - by the defendant in terms of the facts that were the basis for refusal to perform the requested action (inaction), and by the plaintiff in terms of facts favorable to him;

4) in lawsuit for recognition - by the plaintiff in terms of the facts confirming the presence or absence of any legal relationship, and by the defendant in terms of the facts substantiating the legality of the burdening administrative act that no longer has legal force, as well as any committed action (inaction).

3. The defendant may refer only to that basis that is mentioned in the administrative act.

4. If, after examining all the evidence, any fact that determines the outcome of the administrative case remains unproven, then the negative consequences of the results of the consideration and resolution of the administrative case shall be borne by the party bearing the burden of proving this fact.

### **Article 130. Specificities of proof**

1. The court is obliged to assist in eliminating formal errors, clarifying ambiguous expressions, filing petitions on the merits of administrative case, supplementing incomplete factual data, submitting all written explanations that are important for a complete determination and objective assessment of the circumstances of administrative case at all stages of the process.

2. If the evidence presented by the participants in the administrative proceeding is insufficient, the court shall collect it on its own initiative.

The participants in the administrative proceeding are obliged to assist the court in investigating the factual circumstances of the administrative case and collecting evidence.

The court is not bound by a party's statement on the admissibility of evidence, which is permitted in the final judgment.

3. Participants in the administrative proceeding are obliged to submit documents requested by the court, as well as the necessary information. The court may demand these documents by a certain date.

The participants in the administrative process are obliged to attach to these documents electronic documents, documents or extracts from them to which they refer.

4. Persons participating in administrative case shall not have the right to destroy or hide any evidence or otherwise hinder its investigation and assessment, making it impossible or difficult to obtain evidence. In this case, the court may impose the burden of proof on the interfering party, regardless of the rules established by part two of Article 129 of this Code.

5. In cases of failure to notify the court on the impossibility of submitting evidence within the time period established by it, as well as failure to fulfill the obligation to present the evidence required by the court for reasons recognized by the court as disrespectful, the court has the right to impose a monetary penalty in the manner prescribed by Article 127 of this Code.

6. If the disclosure of the content of these documents or acts may cause damage to legally protected interests or they contain information constituting state secrets or other secrets

protected by law, the court shall issue a ruling on the study of these documents or acts, as well as information in a closed court session.

## **Chapter 20. ADMINISTRATIVE LAWSUIT, ITS FORM, CONTENT AND TYPES Article 131. Administrative lawsuit, its form, and content**

1. In administrative court, administrative case shall be initiated based on a lawsuit.

For the purposes of this Code, lawsuits also mean other appeals to the court provided for by the laws of the Republic of Kazakhstan.

Lawsuits filed with the court are:

- 1) lawsuit for challenging;
- 2) lawsuit for enforcement;
- 3) lawsuit for action;
- 4) lawsuit for recognition.

2. The lawsuit shall be filed with the court in writing or in the form of an electronic document certified by the electronic digital signature of the plaintiff and (or) his (her) representative.

The lawsuit must indicate:

- 1) name of the court where the lawsuit is filed;
- 2) last name, first name and patronymic (if it is indicated in the identity document) of the plaintiff, if the plaintiff is an individual, his (her) place of residence, date and place of his (her) birth, the name of the representative and his address, if the lawsuit is filed by the representative; phone numbers, e-mail addresses of the plaintiff, his (her) representative; name of the plaintiff, if the plaintiff is a legal entity or other organization, its location, business identification number and bank details;
- 3) name of the defendant, location, bank details (if known to the plaintiff) and business identification number (if known to the plaintiff). The lawsuit must contain the telephone numbers and e-mail address of the defendant, if known to the plaintiff;
- 4) content of the lawsuit (subject of the lawsuit) and a statement of the circumstances by which the plaintiff substantiates his lawsuits (basis for the lawsuit), the essence of the violation or threat of violation of the rights, freedoms and legitimate interests of the plaintiff. In the case of filing a lawsuit against several defendants - the content of the lawsuit against each of the defendants;
- 5) information on the observance of the pre-trial procedure for contacting the defendant, if this is established by law;
- 6) list of documents and other attached materials (if any).

3. The lawsuit, as a rule, also shall indicate:

- 1) substantiated opinion of the plaintiff about the violation by the defendant of his rights, freedoms and legitimate interests, about the establishment of obstacles to their implementation or about the illegal imposition of any obligation on him;

2) if necessary - a written application for a postponement, installment plan, exemption from payment of the state fee; on the appointment of a forensic examination; on the demand for evidence; about summoning witnesses; on securing a lawsuit and other petitions.

4. In confirmation of the circumstances that substantiate the lawsuit, the plaintiff shall submit evidence, and in case of impossibility, indicates the evidence that he cannot independently present, indicating the relevant reasons.

5. The lawsuit shall be signed by the plaintiff or his representative with the authority to sign it. If a representative files a lawsuit, then the name of the representative, his postal address, as well as telephone numbers, e-mail address, if any, shall be indicated.

6. In the event that a prosecutor applies in the interests of a citizen, the lawsuit must contain substantiation of the reasons for the impossibility of filing a lawsuit by the person himself (herself).

7. The documents attached to the lawsuit shall be presented, as a rule, in originals. If it is impossible to present documents in originals, they may be submitted in copies certified in accordance with the procedure established by law. If a copy of the document may not be certified due to the absence of the original, the lawsuit must state the reason for the impossibility of such actions.

8. The following shall be attached to the lawsuit:

1) copies of the lawsuit and documents attached thereto according to the number of participants in the administrative proceeding;

2) a document confirming the payment of the state fee, or a request for a delay in the payment of the state fee on the grounds provided for by the Code of the Republic of Kazakhstan "On taxes and other mandatory payments to the budget" (Tax Code);

3) power of attorney or other document certifying the authority of the representative;

4) documents confirming the circumstances on which the plaintiff bases his lawsuits;

5) documents confirming compliance with the pre-trial procedure for resolving a dispute, if this procedure is established by law;

6) copies of the charter, certificate or statement on state registration, if the lawsuit is filed by a legal entity, and other documents;

7) copies of the investment contract concluded between the investor and the authorized state body, as well as documents confirming the investor's investment activities, if the lawsuit is filed in accordance with part three of Article 102 of this Code.

**Footnote. Article 131 as amended by the Law of the Republic of Kazakhstan dated 12.12.2023 No. 46-VIII (effective from 01.01.2024).**

## **Article 132. Lawsuit for challenging**

In case of violation of the rights, freedoms and legitimate interests of the plaintiff by a burdening administrative act, he has the right to file a lawsuit for challenging with the requirement to cancel the administrative act in full or in any part of it.



### **Article 133. Lawsuit for enforcement**

1. In lawsuit for enforcement, the plaintiff may demand the acceptance of a favorable administrative act, the acceptance of which was refused or not accepted due to the inaction of an administrative body or official.

In such cases, a separate requirement to challenge the refusal is not required.

2. Lawsuit for enforcement may contain a requirement for the respondent to be obliged not to accept a burdensome administrative act.

### **Article 134. Lawsuit for action**

1. In lawsuit for action, the plaintiff may demand to perform certain actions or refrain from such actions that are not aimed at the acceptance of administrative act.

2. In lawsuit for action, the plaintiff may also demand the submission of a corresponding document provided for by law in the event that the administrative act is recognized as accepted due to the failure to accept the administrative act within the time established by law on the same subject.

### **Article 135. Lawsuit for recognition**

1. In a lawsuit for recognition, the plaintiff may demand to recognize the presence or absence of any legal relationship, if he may not file a lawsuit in accordance with Articles 132, 133 and 134 of this Code.

2. In an action for recognition, the plaintiff may also demand to declare an encumbrance administrative act that no longer has legal force as illegal.

3. A lawsuit for recognition may be filed if the plaintiff is sufficiently interested in establishing these relations as soon as possible. The plaintiff's interest in establishing legal relations may be legal, moral, or material in nature.

### **Article 136. Term for filing a lawsuit**

1. Lawsuits for challenging, for enforcement shall be filed with the court within a month from the date of delivery of the decision of the body considering the complaint based on the results of the consideration of the complaint.

In the event that the law does not provide for a pre-trial procedure or there is no body considering the complaint, the lawsuit shall be filed within one month from the date of delivery of the administrative act or from the moment it was brought to the notice in the manner established by this Code and the legislation of the Republic of Kazakhstan.

2. Lawsuit for the commission of an action shall be filed in court within a month from the day when the person became aware of the commission of the action, as well as when the

period established by the legislation of the Republic of Kazakhstan for the commission of the action has expired.

3. Lawsuit for recognition shall be filed with a court within five years from the moment the relevant legal relationship arose.

Demand to declare a burdensome administrative act that no longer has legal force may be declared illegal within three months from the day when the person became aware of the violation of his rights, freedoms and legitimate interests by this act.

4. Lawsuit for the actions (inaction) of a court officer for the execution of court orders shall be filed with the court within ten working days from the date of the action (refusal to perform the action) or from the day when the plaintiff or the debtor, not notified of the time and place of the action by the court performer, learned on it.

5. A person who did not participate in the administrative procedure, whose rights, freedoms and legal interests are affected by the administrative act, has the right to file a lawsuit in court within a month from the day when the person learned or could learn about the adoption of the administrative act, but no later than one year from the date of its acceptance.

6. A person who has filed a complaint with the body considering the complaint has the right to file a lawsuit with the court within a month from the date of delivery of the decision on the complaint or after the expiration of the time limit for the consideration of the complaint, if a decision on the complaint has not been taken.

7. A missed deadline for filing a lawsuit for a good reason may be restored by the court in accordance with the rules of the Civil Procedure Code of the Republic of Kazakhstan. The reasons for missing the deadline for filing a lawsuit with the court and their significance for the correct resolution of administrative case shall be clarified by the court in a preliminary hearing.

8. Missing the deadline for filing a lawsuit in court without a good reason, as well as the impossibility of restoring the missed deadline for applying to the court, shall be the basis for returning the lawsuit.

## **Chapter 21. ACTION BY THE COURT ON THE CASE AND THE PRELIMINARY HEARING**

### **Article 137. Filing a lawsuit**

By filing a lawsuit, the case is accepted for proceedings.

### **Article 138. Actions by the court (judge) on the case**

**Footnote. The heading of Article 138 – as reworded by the Law of the Republic of Kazakhstan dated 20.12.2021 No. 83-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

1. Before the start of the trial, the judge shall make all the actions and orders that are necessary to resolve the dispute, if possible during one court session.

2. The court (judge) shall issue a ruling on the return of the lawsuit on the following grounds:

1) plaintiff has not complied with the procedure for pre-trial settlement of the dispute established by law for this category of cases and the possibility of applying this procedure has not been missed;

2) lawsuit does not meet the requirements of the second part of Article 131 of this Code and the impossibility of eliminating the deficiencies before the preliminary hearing is established;

3) application was submitted by an incapacitated person;

4) application is signed by a person who does not have the authority to sign it or submit it;

5) in the proceedings of the same or another court there is a case on a dispute between the same parties, on the same subject and on the same basis;

6) plaintiff has withdrawn the submitted lawsuit;

7) despite the demands of the court, the plaintiff, who did not ask to hear the case in his absence, did not appear in the court on a second summons;

8) the person in whose interests the case was initiated did not support the stated lawsuit;

9) parties have entered into an agreement on conciliation, mediation or settlement of a dispute in a participatory procedure, and it has been approved by the court;

10) state duty has not been paid or paid in addition to the procedure established by the Civil Procedure Code of the Republic of Kazakhstan;

11) the case is not subject to consideration in the order of administrative legal proceedings ;

12) there is a court decision or a court ruling on the approval of an agreement on conciliation, mediation or on the settlement of a dispute in a participatory procedure, which has entered into legal force on a dispute between the same parties, on the same subject and on the same basis;

13) after the death of a citizen who is one of the parties to the case, the disputed legal relationship does not allow for succession;

14) the organization acting as a party to the case was liquidated with the termination of its activities and the absence of legal successors;

15) the court refused to restore the missed deadline for filing a lawsuit;

16) agreement has been concluded between the parties in accordance with the law on referring this dispute to arbitration unless otherwise provided by law;

17) the case is not within the jurisdiction of the given court.

3. The return of the lawsuit does not prevent the repeated filing of the lawsuit with the court, with the exception of subparagraphs 3), 5), 9), 11), 12), 13), 14), 15) and 17) of part two of this Article, against the same defendant, on the same subject and on the same basis.

4. In order to prepare administrative case for a preliminary hearing, the judge shall:

1) indicate to the plaintiff the removable defects of the lawsuit and sets a time limit for their correction, as a rule, not exceeding ten working days from the date of delivery of such a

demand, with an explanation of the procedural consequences of failure to comply with the court requirements;

2) perform the procedural actions necessary for the correct and timely consideration and resolution of the administrative case, provided for by the Civil Procedure Code of the Republic of Kazakhstan.

5. The judge obliges the defendant to submit a written review prepared and executed in accordance with the requirements of the Civil Procedure Code of the Republic of Kazakhstan, and a reasoned position of the head of a higher administrative body, an official with an administrative case (if any) within a period not exceeding ten working days.

The plaintiff gets acquainted with the review and position at the preliminary hearing stage

Failure to submit them within the time limit set by the judge may be the basis for the application of a monetary penalty and does not prevent the consideration of an administrative case on the merits.

6. The judge shall conduct a preliminary hearing within a reasonable time, except for the cases provided for by this Code.

**Footnote. Article 138 as amended by the Law of the Republic of Kazakhstan dated 20.12.2021 No. 83-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication).**

### **Article 139. Securing the lawsuit**

1. The basis, measures for securing a lawsuit, their replacement and cancellation, the procedure for securing a lawsuit shall be determined by the rules of the Civil Procedure Code of the Republic of Kazakhstan, with the exception of the specifics provided for by this Article

2. An application for securing a lawsuit, received simultaneously with a lawsuit, shall be considered by a judge within five working days from the date of receipt of the lawsuit.

Upon receipt of an application for securing a lawsuit after the expiry of this five-day period, the judge shall resolve the application no later than the next working day after its receipt by the court.

### **Article 140. Cancellation of administrative action validity suspension**

The defendant has the right to file a reasoned petition on the need to immediately bring into force the disputed administrative act in accordance with Article 96 of this Code.

This petition may be filed at any stage of the administrative process and shall be reviewed by a judge in accordance with the rules on securing measures.

When making a decision to reject a lawsuit for challenging, as well as at any time before the decision enters into legal force, the court, upon a reasoned request from the participants in the administrative proceeding, shall cancel the suspension or execution of the contested administrative act.

#### **Article 141. Procedure for submitting documents**

1. For submission of written (in paper and (or) electronic form) petitions, objections, explanations and related documents, the judge shall set the necessary deadlines for the parties.

These documents, received by the court after the expiration of the deadline established by the court, shall be accepted if the party justifies the impossibility of submitting them within the period established by the court and they were received before the court made a decision.

2. Requests, objections, explanations must be accompanied by full originals of documents or their copies certified in an orderly manner, to which they refer, or extracts from them.

3. The court shall ensure familiarization of the parties with the received documents.

#### **Article 142. Modification and withdrawal of suit. Recognition of suit**

1. Before the retirement of the court for making a decision, the plaintiff has the right to withdraw the lawsuit in completely or in part, and the defendant - to recognize the lawsuit in full or in part by filing a written application.

The plaintiff has the right to change the basis and subject of the lawsuit, increase or decrease the amount of the lawsuit by submitting a written application before the court leaves for a decision. The course of the term for the consideration of administrative case shall be calculated from the date of the initial demand.

When the subject of the lawsuit is changed, the court shall consider the issues provided for in parts two and four of Article 138 of this Code, and shall also provide time for the defendant to prepare a new written response.

The parties have the right to perform such actions both on their own initiative and because of the judge's preliminary opinion.

The court is not entitled to change the subject of the lawsuit on its own initiative.

2. If the plaintiff's application for withdrawal of the lawsuit is received in full at the court session or preliminary hearing, the court shall explain the consequences of the withdrawal of the lawsuit. In other cases, the judge shall return the lawsuit without summoning the participants in the administrative process with the return of the state fee.

3. Before accepting the recognition by the defendant of the lawsuit, the court shall explain to the parties the procedural consequences. The recognition of the lawsuit by the defendant shall release the court from the obligation to examine the evidence.

In the case of a partial recognition of the lawsuit, the examination of the evidence shall be carried out only in the part in which the lawsuit was not recognized by the defendant, and shall be resolved when a decision is made on the merits of the dispute.

4. The court shall not accept the change in the lawsuit or its withdrawal, the recognition of the lawsuit by the defendant if these actions contradict the law or violate someone's rights, freedoms, or legitimate interests, as well as in the appeal and cassation review. In this case, the consideration of the administrative case shall continue in a general manner.

#### **Article 143. Preliminary hearing**

1. At the preliminary hearing, the court shall:

- 1) resolve the issue of the composition of the participants in the administrative proceeding ;
- 2) investigate the reasons for missing the term and resolve the issue of restoring the missed term. In case of refusal to restore the missed period, return the lawsuit;
- 3) discuss the possibility of concluding an agreement on conciliation, mediation, or the settlement of a dispute in a participatory procedure;
- 4) explain to the parties on the possibility of considering administrative case by way of written proceedings with their consent;
- 5) oblige persons not participating in the administrative case to submit materials and documents necessary for the court;
- 6) perform other actions aimed at resolving the administrative case.

In administrative cases on challenging decisions, conclusions, orders of the authorized body based on the results of an audit of public procurement, as well as actions (inaction) of court officers, a preliminary hearing shall be carried out no later than twenty working days from the date of filing a lawsuit in court.

The preliminary hearing of administrative cases on disputes, set forth by part three of Article 102 of this Code shall be held no later than one month upon the submission of a lawsuit to the court.

2. The preliminary hearing shall ensure full disclosure of the evidence without examination.

3. Based on the results of the preliminary hearing, the court has the right to schedule a re-preliminary hearing.

**Footnote. Article 143 as amended by the Law of the Republic of Kazakhstan dated 20.12.2021 No. 83-VII (shall be enforced upon expiry of ten calendar days after the date of its first official publication).**

#### **Article 144. Access to the materials of the administrative case**

Placing documents and materials of administrative case on the electronic services of a court shall be equivalent to sending documents to persons participating in administrative case.

Acquaintance with documents and materials of administrative case in courts in the form of an electronic document shall be carried out in the manner prescribed by the legislation of the Republic of Kazakhstan.

#### **Article 145. Appointment of court trial**

The judge, having recognized the administrative case as prepared, shall notify the parties and other participants in the administrative proceeding on the place and time of the consideration of the administrative case.

#### **Chapter 22. COURT TRIAL Article 146. Terms of court trial**

1. Administrative case shall be considered and resolved within a reasonable term, but no more than three months from the date of the filing the lawsuit.

In administrative cases of particular complexity, a reasoned court ruling for a reasonable period, but no more than three months may extend this period.

The ruling on the extension of the term of the trial is not subject to appeal, revision at the request of the prosecutor.

2. Administrative cases on challenging decisions, conclusions, and orders of the authorized body based on the results of the audit of public procurement and actions (inaction) of the court officer shall be considered and resolved within ten working days from the date of his appointment to the proceedings in the court session.

3. Suspension of administrative legal proceedings shall be carried out in accordance with the rules of the Civil Procedure Code of the Republic of Kazakhstan.

#### **Article 147. Procedure and specificities of trial**

1. The trial, including the procedure for holding the court session, the powers of the presiding judge, the procedure for drawing up a protocol, including a brief one, fixing the court session, permitting the court of petitions and examining evidence, shall be carried out according to the rules of the Civil Procedure Code of the Republic of Kazakhstan, with the exception of the specifics established by this Article.

In this case, the brief protocol must be accompanied by a textual transcript of the audio recording obtained by automatic text recognition.

2. After the judicial debate in the administrative case, the court shall retire to make a decision. The court shall announce the operative part of the decision in the courtroom. After the operative part of the court decision is announced, the presiding judge shall explain the

legal basis and the consequences of its adoption, the procedure and terms for appealing the decision, announce the date of the decision-making in the final form and when the persons participating in the administrative case may receive a copy thereto.

3. If the persons participating in the administrative case fail to appear, the decision shall not be announced in the court session.

4. If the announcement of the operative part of the decision is not made immediately after the end of the court session, the presiding judge is obliged to announce to the persons in the courtroom the date and time of the announcement.

5. The procedure for announcement provided for by this Article shall apply to other judicial acts, which conclude the proceedings on the case.

### **Chapter 23. WRITTEN PRODUCTION Article 148. Written proceedings**

1. The court, with the consent of the parties, has the right to consider administrative case in written proceedings within a reasonable time, but no more than three months from the date of the filing the lawsuit.

In administrative cases of particular complexity, this period may be extended by a reasoned court ruling for a reasonable period, but no more than three months.

The ruling on the extension of the term of the trial is not subject to appeal, revision at the request of the prosecutor.

The court goes over to oral proceedings if a petition has been received from a party to revoke a previously expressed consent.

The court has the right, at its own discretion, to proceed to oral proceedings, if this is necessary for the correct resolution of the case.

2. By written proceedings, administrative case shall be considered without conducting an oral hearing.

3. In considering administrative case in this manner, the court shall examine the evidence presented by the parties and demanded on its own initiative, and a decision shall be made on them.

4. In written proceedings, the court shall set a time limit during which additional applications and documents may be submitted.

### **Article 149. Specificities of evidence study**

1. The examination of evidence, the subject, and the limits of proof shall be established by the norms of the Civil Procedure Code of the Republic of Kazakhstan, taking into account the nature of written proceedings and the specificities established by this Article.

2. The parties to the administrative proceeding shall have the right to challenge the relevance, admissibility, and reliability of written evidence, with the exception of persons who have submitted such evidence.



3. The court in written proceedings has the right to deviate from the observance of the rules established by the Civil Procedure Code of the Republic of Kazakhstan for the collection (presentation) and examination of evidence provided for oral proceedings, if this contributes to the quick resolution of the administrative case.

For the performance of a separate procedural action or the resolution of a procedural issue, the court may appoint an oral hearing.

This hearing shall be carried out according to the rules of oral proceedings, as far as the essence of the written proceedings permits.

In this case, the court may require the submission of the necessary information and evidence in writing.

After the necessary oral proceedings have been carried out, the written proceedings shall continue without further determination.

#### **Article 150. Decision on administrative case considered in written proceedings**

Decision on administrative case considered in written proceedings shall be made taking into account the rules established by Chapter 24 of this Code and corresponding to the merits of written proceedings, and may be appealed in the appeal and cassation procedures.

#### **Chapter 24. COURT DECISION Article 151. Delivery of court decision**

1. The judicial act, by which the court resolves the dispute on the merits, shall be rendered in the form of a decision. The decision may be made in brief form.

2. The decision shall be made after the examination of the administrative case and shall be made no later than ten working days from the date of the end of the oral proceedings. In exceptional cases, taking into account the complexity of the administrative case, the court decision shall be made no later than one month from the date of the end of the oral proceedings.

3. The date of the decision shall be:

for oral proceedings - the day of the announcement of the decision in the administrative case;

for written proceedings - the date specified in the court decision.

#### **Article 152. Content of the decision**

1. The court shall make a decision based on its inner conviction, based on the results of a direct study of the circumstances of the administrative case. The decision shall be taken in the name of the Republic of Kazakhstan.

2. The decision of the court shall consist of introductory, descriptive, motivating, and operative parts.

3. The content of the introductory, descriptive and operative parts of the court decision, as well as the procedure for correcting explicit mistakes and arithmetic errors in them, for making an additional decision shall be determined in accordance with the requirements of the Civil Procedure Code of the Republic of Kazakhstan, with the exception of the question of clarifying the court decision.

In the operative part of the decision, the court shall indicate the onset of the legal consequences of its failure, taking into account the requirements established by parts five and nine of Article 127 of this Code and in accordance with the laws of the Republic of Kazakhstan.

4. The reasoning part of the court decision shall contain:

- 1) circumstances of the dispute;
- 2) lawsuits and their justification;
- 3) evidence, the court bases its decision on;
- 4) arguments on which the court rejected any evidence;
- 5) justification why the court does not agree with each of the arguments of the participants in the administrative proceeding;
- 6) norms of the legislation of the Republic of Kazakhstan;
- 7) conclusions of the court on each of the stated requirements.

If the defendant recognizes the lawsuit, the motivation part may indicate only the recognition of the lawsuit and its acceptance by the court.

The court decision shall be taken in writing and signed by the judge.

#### **Article 153. Brief decision**

1. Brief decision shall consist of introductory, motivating and operative parts.

In the reasoning part of the decision, evidence may be listed without disclosing their content.

2. In case of disagreement with the arguments of the plaintiff or rejection of the evidence presented by him (her), the court has the right only to refer to the decision based on the results of the pre-trial consideration of the complaint, if it considers the justifications set forth in it to be exhaustive.

3. At the request of the parties, but no later than ten working days from the date of delivery of the brief decision of the court, the court is obliged to make a decision. The text of the complete decision shall be done no later than ten working days from the date of receipt of this petition.

#### **Article 154. Legality and validity of the decision**

1. The decision of the court must be lawful and justified.

2. A court decision shall be recognized as legal if it has been made in compliance with all the requirements of the law and based on the law.

3. The decision shall be deemed justified if it is made based on a comprehensive and objective study in the court session of the evidence presented to the court.

#### **Article 155. Issues resolved by the court in deciding**

1. In making a decision, the court shall evaluate the evidence and determine what circumstances have been established, which legal act should be applied in this administrative case, and whether the lawsuit is subject to satisfaction. If several lawsuits are presented in an administrative case, the court shall take a decision on all lawsuits.

2. When an administrative body, an official exercises administrative discretion, the court shall also check whether the limits established by the legislation of the Republic of Kazakhstan are not exceeded and whether the exercise of administrative discretion is consistent with the purposes of this authority.

3. Recognition of administrative act or part of it as illegal shall entail its cancellation, as well as the cancellation of all legal consequences arising from it or from its part unless otherwise specified in the court decision.

4. The court shall refuse to satisfy the lawsuit, if during its consideration it establishes that the contested action (inaction) has been committed, the decision has been made in accordance with the competence and legislation of the Republic of Kazakhstan.

5. The decision shall indicate the period during which the court decision must be executed

#### **Article 156. Decision on the lawsuit for challenging**

1. If the lawsuit for challenging a burdening administrative act affecting the rights, freedoms and legal interests of the plaintiff is justified and the court recognizes its illegality, it shall cancel it in full or in any part.

2. In case of recognition of the illegality of a burdening administrative act, which at the time of the decision has already been executed or is being executed, the court has the right to compel the defendant to cancel the execution and demand that actions be taken to return the plaintiff to its original position within the time period specified in the decision.

#### **Article 157. Decision on lawsuit for enforcement**

1. If the failure to accept administrative act resulting from the refusal to issue administrative act or the defendant's failure to act is contrary to the law or caused a violation of the rights, freedoms and legitimate interests of the plaintiff, the court shall impose on the administrative body the obligation to accept the administrative act.

The court has the right to impose on the defendant the obligation not to accept the burdensome administrative act.

2. In a decision, the court may determine the content and the term for the adoption of the administrative act, as well as other circumstances that are essential for the administrative case, with the exception of resolving expediency issues. Such a court decision shall replace the administrative act pending its acceptance.

If it is impossible to make a specific decision to satisfy the plaintiff's lawsuits in the presence of administrative discretion, the court shall impose on the defendant the obligation to accept, taking into account the legal position of the court, the corresponding administrative act in favor of the plaintiff.

#### **Article 158. Decision on lawsuit for action**

1. When a lawsuit for action is recognized as justified and lawful, the court shall oblige the defendant to perform specific actions and establish a time limit for their execution.

If the plaintiff simultaneously demands to recognize the unlawfulness of a specific committed action of the defendant, the court shall recognize in the decision that the actual action of the administrative body was unlawful.

2. If the lawsuit for the prohibition of action is recognized as justified and lawful, the court shall prohibit the defendant from performing specific actions in the future.

#### **Article 159. Decision on lawsuit for recognition**

1. In satisfying the lawsuit for recognition, the court shall recognize the presence or absence of any legal relationship or its content, if such lawsuits were declared as independent.

2. The court also has the right to recognize an encumbrance administrative act, which no longer has legal force, illegal if the lawsuit for recognition is justified and legal, and the recognition of this circumstance is necessary to restore the violated rights of the plaintiff.

3. The court also has the right, at the request of the plaintiff, to declare an encumbrance administrative act unlawful if it has already been cancelled or its effect has become invalid in another way, including in any part of it.

#### **Article 160. Settlement of lawsuit for damages**

1. The applicant has the right to present simultaneously with lawsuits stated in Articles 132, 133, 134 and 135 of this Code, the compensation lawsuit, consisting with these requirements cause-and-effect relationships.

2. If the relevant requirements are satisfied, the court shall determine the amount of the caused damages in the decision.

#### **Article 161. Coming into legal force of a court decision**

The decision of the court of first instance, if it has not been addressed to immediate execution, shall enter into force after the expiry of the term for appeal, if no appeal or petition is filed.

In cases of missing the term for appeal, filing a petition and refusal to restore the term by the court, the decision shall come into legal force after the expiry of the term for appealing the decision on refusal.

## **Chapter 25. PROCEEDINGS ON ADMINISTRATIVE CASES ON THE PROTECTION OF THE ELECTORAL RIGHTS OF CITIZENS AND PUBLIC ASSOCIATIONS PARTICIPATING IN THE ELECTIONS, THE REPUBLICAN REFERENDUM Article 162. Filing lawsuit**

A citizen, a public association, a member of an election commission, trustees of candidates and political parties, representatives of political parties with an advisory vote, observers of political parties, other public associations, non-profit organizations who believe that a decision, action (inaction) of a state body, a local state body management and self-government, election commission, enterprises, organizations, their officials violate the right to elect or be elected, participate in elections, referendums, have the right to file a lawsuit in court according to the jurisdiction established by Chapter 16 of this Code and other laws of the Republic of Kazakhstan.

### **Article 163. Consideration of administrative case on the protection of the electoral rights of citizens and public associations participating in elections, republican referendum**

1. A lawsuit filed during the preparation and conduct of elections, a republican referendum, as well as within a month from voting day, must be considered within five days, and received less than five days before voting, on voting day and before the announcement of the election results, republican referendum - immediately unless otherwise provided by the constitutional laws of the Republic of Kazakhstan "On elections in the Republic of Kazakhstan" and "On the republican referendum".

A lawsuit to appeal against the decision of the election commission on the need to correct the lists of voters (electors) must be considered on the day of receipt.

2. The lawsuit shall be considered by a court with the participation of the plaintiff, a representative of the relevant election commission or state body, local government and self-government body, enterprise, organization, prosecutor. Failure to appear in court of these persons, in an orderly manner notified of the time and place of the court session, shall not be an obstacle to the consideration and resolution of the administrative case.

### **Article 164. Court decision, its appeal, revision on the petition of the prosecutor, protest and execution**

1. The decision of the court, by which the lawsuit is recognized as justified, shall be the basis for the restoration of the violated electoral right.

2. Appeal may be filed against the decision of the court of first instance; the prosecutor may file appeal within three days from the date of delivery of a copy of the decision unless otherwise provided by the constitutional laws of the Republic of Kazakhstan "On elections in the Republic of Kazakhstan" and "On the republican referendum".

The decision of the court of appeal is not subject to appeal and protest.

3. The decision of the court on administrative cases on challenging decisions and actions (inaction) of the Central Election Commission of the Republic of Kazakhstan, as well as decisions and actions (inaction) of the Central Referendum Commission, rendered in accordance with the rules of jurisdiction provided for in Article 105 of this Code, shall enter into legal force from the day its announcement and may be appealed, protested in cassation within three days from the date of delivery of a copy of the decision unless otherwise provided by the constitutional laws of the Republic of Kazakhstan "On elections in the Republic of Kazakhstan" and "On the republican referendum".

4. An appeal, a prosecutor's petition, a cassation complaint, a prosecutor's protest against the decisions specified in parts two and three of this Article shall be considered within three days from the date of receipt by the court, and those received less than five days before voting , on voting day and before announcement of the results of elections, a republican referendum - immediately unless otherwise provided by the constitutional laws of the Republic of Kazakhstan "On elections in the Republic of Kazakhstan" and "On a republican referendum".

5. The court decision, which has entered into legal force, shall be sent to the relevant state body, local government and self-government body, enterprise, organization, the chairman of the election commission. Officials guilty of failure to comply with a court decision are liable as prescribed by law.

## **Chapter 26. PROCEEDINGS ON ADMINISTRATIVE CASES ON CHALLENGING DECISIONS, ACTIONS (INACTION) OF administrative BODIES THAT VIOLATE THE RIGHTS OF CITIZENS TO PARTICIPATE IN CRIMINAL PROCEEDINGS AS A JUROR**

**Footnote. The title of Chapter 26 as amended by the Law of the Republic of Kazakhstan dated 14.07.2022 No. 141-VII (shall be enforced from 01.07.2023).**

### **Article 165. Filing lawsuit**

1. A citizen who believes that the decision, action (inaction) of an administrative body violates the right of a citizen to participate in the selection procedure for participation in criminal proceedings as a juror, has the right to file a lawsuit with the court under the jurisdiction established by Chapter 16 of this Code.

2. The claim must be accompanied by evidence indicating a violation of a citizen's right to be included in a single list of candidates for jurors and participation in criminal proceedings as a juror.

3. A claim may be filed in court within seven working days from the end of the period of familiarization of citizens with the single list of candidates for jurors in accordance with the legislation of the Republic of Kazakhstan on jurors.

**Footnote. Article 165 as amended by the Law of the Republic of Kazakhstan dated 14.07.2022 No. 141-VII (shall be enforced from 01.07.2023).**

#### **Article 166. Consideration of administrative case**

1. A lawsuit received within the time limits established by Article 165 of this Code shall be considered within two working days, and a lawsuit received on the day of the end of this period - immediately.

2. An administrative case is considered by a court with the participation of the plaintiff, a representative of the relevant administrative body. The failure of these persons to appear in court, duly notified of the time and place of the court session, is not an obstacle to the consideration and resolution of an administrative case.

**Footnote. Article 166 as amended by the Law of the Republic of Kazakhstan dated 14.07.2022 No. 141-VII (shall be enforced from 01.07.2023).**

#### **Article 167. Court decision and its execution**

1. A court decision that establishes a violation of a citizen's right to participate in the selection procedure for participation in criminal proceedings as a juror is the basis for making corrections to the single list of candidates for jurors.

2. The court decision is sent to the appropriate administrative body. Officials guilty of non-execution of a court decision bear the responsibility established by law.

**Footnote. Article 167 as amended by the Law of the Republic of Kazakhstan dated 14.07.2022 No. 141-VII (shall be enforced from 01.07.2023).**

#### **Chapter 27. PROCEEDINGS FOR REVISION OF JUDICIAL ACTS Article 168. Procedure for appeal**

1. The procedure for appeal and the production of administrative case on an appeal in a court of appeal shall be determined by the rules of the Civil Procedure Code of the Republic of Kazakhstan unless otherwise provided by this Article.

2. Court decisions that have not entered into legal force may be appealed by the participants in the administrative proceeding on appeal by filing an appeal within two months

from the date of the final decision. A prosecutor's appeal may be filed within two months from the date of the final decision on administrative cases provided for in Article 31 of this Code.

3. Private complaint, a petition of the prosecutor for a ruling of the court of first instance shall be filed within ten working days from the date of making the ruling in its final form.

4. Appeal, a petition of the prosecutor for administrative cases on challenging decisions, conclusions, and orders of the authorized body based on the results of an audit of public procurement and actions (inaction) of court officers may be filed within ten working days from the date of the decision.

The right to appeal petition shall belong to the prosecutor who participated in the consideration of the administrative case.

5. The Prosecutor General of the Republic of Kazakhstan and his deputies, prosecutors of regions and prosecutors equal to them and their deputies, prosecutors of districts and prosecutors equated to them, within their competence, have the right to file an appeal for a decision, regardless of participation in the consideration of an administrative case.

Upon the expiry of the time limits for the appeal, the submission of the petition, the court decision shall come into force, if the appeal or petition has not been filed.

6. Appeals of the participants in the administrative process, the prosecutor's petition against judicial acts of the courts of first instance shall be considered by regional and equivalent courts.

7. An appeal, a prosecutor's petition against judicial acts issued in administrative cases considered under the rules of part three of Article 102 of this Code, shall be considered by the court of the capital.

8. Administrative case in the court of appeal shall be considered and resolved within a reasonable time, but no more than three months from the date of its receipt by the court.

In administrative cases of particular complexity, a reasoned court ruling for a reasonable period, but no more than three months may extend this period.

The ruling on the extension of the term of the trial is not subject to appeal, revision at the request of the prosecutor.

A preliminary hearing in a court of appeal shall be carried out in accordance with the rules of Chapter 21 of this Code.

Administrative case on challenging decisions, conclusions, and orders of the authorized body based on the results of an audit of public procurement and actions (inaction) of court officers shall be considered within ten working days from the date of its receipt by the court.

9. Upon a reasoned petition of a participant in an administrative proceeding, the court has the right to grant him an additional period, not exceeding one month, to substantiate his legal position.

10. The decision of the court of appeal shall enter into force upon the expiration of the cassation term for appeal.



The rulings of the court of appeal on private complaints against rulings of the court of first instance, which are not subject to revision in cassation proceedings, shall enter into force from the date of announcement.

Other rulings of the court of appeal, which block the possibility of further movement of the administrative case, may be appealed in cassation proceedings.

**Footnote. Article 168 as amended by the Law of the Republic of Kazakhstan dated 20.03.2021 No. 20-VII (shall be enforced from 01.07.2021); dated 05.11.2022 No. 157-VII ( shall be enforced ten calendar days after the date of its first official publication).**

### **Article 169. Procedure for cassation appeal**

1. The procedure for cassation appeal and proceedings in the court of the cassation instance shall be determined by the rules of the Civil Procedure Code of the Republic of Kazakhstan unless otherwise provided by this Article.

2. Decisions and rulings of the court that have not entered into legal force may be appealed by the participants in the administrative proceeding in cassation proceedings by filing a cassation appeal within a month from the date of delivery of the final form of the judicial act of the appeal instance.

A cassation petition from a prosecutor may be filed within a month from the date of the final decision on administrative cases provided for in Article 31 of this Code.

The right to lodge a cassation petition belongs to regional prosecutors and prosecutors equated to them.

The Prosecutor General of the Republic of Kazakhstan and his deputies, within their competence have the right to file a cassation petition for a decision, regardless of participation in the consideration of an administrative case.

Upon the expiry of the time limit for the appeal in cassation proceedings, the submission of the petition, the court decision shall come into legal force, if no cassation appeal or petition has been filed.

3. Judicial acts that have entered into legal force, including those on administrative cases completed by way of conciliation, mediation or settlement of a dispute by way of a participatory procedure may be revised based on the protests of the Prosecutor General of the Republic of Kazakhstan, brought both on their own initiative and on petitions, specified in part two of this Article, filed to him in administrative cases provided for by Article 31 of this Code, within three months from the date of entry into force.

This period shall not apply to cases of revision of judicial acts on the basis provided for in part six of this Article.

4. Cassation complaints, petitions and protests against judicial acts are considered by the Judicial Collegium for Administrative Cases of the Supreme Court of the Republic of Kazakhstan.

5. Administrative case in a court of cassation shall be considered and resolved within a reasonable term, but no more than six months from the date of its receipt by the court.

A petition for revising a judicial act in cassation proceedings shall be considered within six months from the date of its receipt, and in the case of administrative case being reclaimed, within six months from the date of receipt of the administrative case.

A preliminary hearing in a court of cassation shall be carried out in accordance with the rules of Chapter 21 of this Code.

6. Resolutions of the cassation instance on administrative cases may be revised upon the proposal of the Chairman of the Supreme Court of the Republic of Kazakhstan, upon the protest of the Prosecutor General of the Republic of Kazakhstan.

The basis for revision in cassation proceedings shall be:

1) cases when the execution of the adopted resolution may lead to serious irreversible consequences for the life, health of people or for the economy and security of the Republic of Kazakhstan;

2) cases when the adopted resolution violates the rights, freedoms and legitimate interests of an indefinite number of persons or other public interests;

3) cases when the adopted decision violates the uniformity in the interpretation and application of the norms of law by the courts.

**Footnote. Article 169 as amended by the Law of the Republic of Kazakhstan dated 20.03.2021 No. 20-VII (shall be enforced from 01.07.2021).**

#### **Article 170. Proceedings for the revision of judicial acts on newly discovered or new circumstances**

Proceedings for newly discovered and new circumstances shall be carried out according to the rules of the Civil Procedure Code of the Republic of Kazakhstan.

#### **Chapter 28. JUDICIAL CONTROL Article 171. Enforcement of court decision**

1. The court decision, after its entry into legal force, within three working days shall be sent by the court for execution to the defendant.

2. The defendant is obliged to execute the court decision on the administrative case within one month from the date of its entry into legal force, on which he must notify the court.

3. If the decision of the court is not executed voluntarily within the time established therein, the court of first instance shall impose a monetary penalty in the amount established by Article 127 of this Code.

4. Failure to comply with a court decision, a court ruling on the imposition of a monetary penalty shall entail a repeated monetary penalty in the amount established by part nine of Article 127 of this Code without right of appeal.

#### **Article 172. Enforcement of court decisions on recovery of a sum of money**

1. Court decision obliging the defendant to pay a sum of money, not executed voluntarily shall be enforced on the basis of enforcement order, which is issued at the request of the plaintiff.

2. The content, procedure for issuing an enforcement order, authorizing decisions of a court officer shall be determined by the rules of the Civil Procedure Code of the Republic of Kazakhstan, taking into account the specificities established by this chapter.

#### **Article 173. Immediate execution of a judicial act**

1. The court, upon a substantiated motion of the participants in the administrative proceeding, as well as on its own initiative, has the right to enforce the decision of the court to immediate execution if the later execution would cause significant harm to the rights of the participant in the administrative proceeding, or would be difficult or impossible.

When referring a judicial act to immediate execution, the court shall also take into account the rights of other participants in the administrative process and public interests.

2. The court may at any time, based on a petition of a participant in the administrative proceeding, suspend the execution of the judicial act, which is subject to immediate execution

3. Judicial acts addressed to immediate execution are not subject to execution if cancelled or changed by a judicial act of a higher instance that has not entered into legal force.

#### **Chapter 29. FINAL PROVISIONS Article 174. Responsibility for violation of the legislation of the Republic of Kazakhstan on administrative procedures and the legislation of the Republic of Kazakhstan on administrative legal proceedings**

Violation of the legislation of the Republic of Kazakhstan on administrative procedures and the legislation of the Republic of Kazakhstan on administrative legal proceedings shall entail liability established by the laws of the Republic of Kazakhstan.

#### **Article 175. The order of enforcement of this Code**

1. This Code shall enter into force on July 1, 2021.

2. Prior to the entry into force of this Code, state bodies must carry out work to bring the normative legal acts regulating administrative procedures in line with this Code.

2-1. To suspend until January 1, 2026 the effect of:

1) subparagraphs 12) and 16) of part one of Article 4 of this Code, having established that during the suspension period, subparagraph 16) of this part is valid in the following wording:

"16) appeal – sent to an administrative body or official in writing (paper and (or) electronic) form or orally, as well as in the form of a videoconference, a statement or a complaint;"

2) part five of Article 64 of this Code, having established that during the suspension period this part is valid in the following wording:

"5. The procedure for applying of participants in the administrative procedure through videoconference to the heads of state bodies and their deputies is determined by the authorized body in the field of informatization."

3. The following shall be recognized as invalidated from July 1, 2021:

1) The Law of the Republic of Kazakhstan dated November 27, 2000 "On administrative procedures" (Gazette of the Parliament of the Republic of Kazakhstan, 2000, No. 20, Article 379; 2004, No. 5, Article 29; 2007, No. 12, Article 86; No. 19, Article 147; 2008, No. 21, Article 97; 2009, No. 15-16, Article 74; No. 18, Article 84; 2010, No. 5, Article.23; No. 7, Article 29; No. 17-18, Article 111; 2011, No. 1, Article 2; No. 7, Article 54; No. 11, Article 102; No. 12, Article 111; No. 15, Article 118; 2012, No. 8, Article 64; No. 13, Article 91; No. 15, Article 97; 2013, No. 1, Article 3; No. 5-6, Article.30; No. 14, Article 72; 2014, No. 10, Article 52; No. 19-I, 19-II, Article 96; No. 24, Article 144; 2015, No. 20-IV, Article 113; No. 21-II, Article 130; No. 22-I, Article 141; No. 22-II, Article 145; No. 22-V, Article 156; 2016, No. 7-I, Article.47; 2017, No. 14, Article 51; 2019, No. 8, Article 46; No. 21-22, Article 90);

2) The Law of the Republic of Kazakhstan dated January 12, 2007 "On the procedure for considering applications from individuals and legal entities" (Gazette of the Parliament of the Republic of Kazakhstan, 2007, No. 2, Article 17; 2011, No. 3, Article 32; No. 14, Article 117; 2013, No. 5-6, Article 30; No. 14, Article 72; 2014, No. 14, Article 84; No. 23, Article 143; 2015, No. 20- IV, p.113; No. 22-I, p.141; No. 22-V, p.156; No. 23-II, p.172; 2016, No. 22, Article 116; 2018, No. 9, Article 31; No. 22, Article 82).

4. Consideration of cases in the courts, accepted for proceedings before the entry into force of this Code, shall be carried out according to the rules of the procedural legislation of the Republic of Kazakhstan, which was in force before the entry into force of this Code.

5. The administrative procedure, initiated before the entry into force of this Code, but not completed after the entry into force of this Code, shall be carried out in accordance with the legislation of the Republic of Kazakhstan in force before the entry into force of this Code.

6. The administrative procedure initiated before the entry into force of this Code, but not completed after the entry into force of this Code, shall be carried out in unfinished part in accordance with this Code, if the applicant requests this in writing to the relevant administrative body, official.

**Footnote. Article 175 as amended by the Law of the Republic of Kazakhstan dated 30.12.2022 No. 177-VII (shall be enforced ten calendar days after the date of its first official publication).**

