



On approval of the Rules of conducting monitoring of management efficiency of state property, including enterprises and legal entities with state participation

Unofficial translation

Resolution No. 1546 of the Government of the Republic of Kazakhstan dated December 4, 2012.

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In accordance with paragraph 2 of Article 196 of the Law of the Republic of Kazakhstan dated March 1, 2011 On State Property, the Government of the Republic of Kazakhstan hereby **RESOLVES**:

1. To approve the attached Rules of conducting monitoring of management efficiency of state property, including enterprises and legal entities with state participation.
2. To invalidate Resolution No. 998 of the Government of the Republic of Kazakhstan dated July 24, 2001 “On implementation of integrated monitoring system of functioning and effectiveness of the management of state property, and also objects in which the state has a share of ownership” (Collected Acts of the President and the Government of the Republic of Kazakhstan, 2001, No. 27, Art. 347).
3. This resolution shall take effect on March 10, 2013 and is subject to official publication

Prime Minister of the Republic of Kazakhstan

S. Akhmetov

Approved by
Resolution No. 1546
of the Government
of the Republic of Kazakhstan
dated December 4, 2012

Rules for monitoring the effectiveness of management of state property, including state enterprises and legal entities with the participation of the state

Footnote. Rules in the wording of the resolution of the Government of the Republic of Kazakhstan dated 18.02.2021 № 75 (shall enter into force upon expiry of ten calendar days after its first official publication).

Chapter 1. General provisions

1. These Rules for monitoring the effectiveness of the management of state property, including state enterprises and legal entities with the participation of the state (hereinafter referred to as the Rules) have been developed in accordance with Article 196, paragraph 2 of the Law of the Republic of Kazakhstan "On state property" (hereinafter referred to as the Law

) and shall determine the procedure for organizing and monitoring the effectiveness of state property management, including state enterprises and legal entities with the participation of the state.

Footnote. Paragraph 1 as amended by the Resolution of the Government of the Republic of Kazakhstan dated 20.06.2022 № 407 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

2. Monitoring of the efficiency of management of state property, including state enterprises and legal entities with the participation of the state (hereinafter referred to as the monitoring) shall be a system of basic and periodic operational monitoring and analytical assessments of the qualitative and quantitative condition of state property, including technological, financial and economic activities, the legal characteristics of state enterprises and legal entities with the participation of the state in order to timely identify amendments taking place, predict further development and develop recommendations for preventing and eliminating the consequences of negative processes in their activities.

3. Monitoring is an integral part of the system of state forecasting and regulation of sustainable economic development in accordance with the strategic interests of the country, performs information and analytical functions of ensuring economic security on the basis of current legislation and within the framework of a single state policy.

4. Monitoring shall reveal the state and trends in the development of state enterprises and legal entities with the participation of the state, as well as the condition of state property, including those in trust, property hiring (lease), concession or public-private partnership transferred under the agreement, which influence the preservation and strengthening of the resource and energy base of the country's economy and regions. Analytical information on the state and trends in the development of state enterprises and legal entities with the participation of the condition, state property, including those in trust, property hiring (lease), concession or public-private partnership transferred under the agreement, obtained as a result of monitoring, shall be sent to the authorized state planning body:

for republican property - the authorized body for the management of state property;

for communal property - the local executive body of the region, the city of republican significance, the capital, the district, the city of regional significance;

for communal property of local self-government - the staff of the akim of the city of district significance, settlement, village, rural district.

Analytical information by the authorized body for state property management, the local executive body of the region, the city of republican significance, the capital, the district, the city of regional significance, the staff of the akim of the city of district significance, the settlement, the village, the rural district shall be sent to the interested state bodies.

5. These Rules shall apply to state-owned enterprises, joint stock companies and state-owned limited liability partnerships, including national management holdings, national holdings, national companies of which the state shall be a shareholder (hereinafter referred to

as the legal entities with the participation of the state), with the exception of the joint-stock company "National Welfare Fund" Samruk- Kazyina " (hereinafter referred to as the NWF), state bodies, individuals and legal entities that shall be parties to trust agreements, property hiring (lease), concessions (hereinafter referred to as the contract party) or a public-private partnership agreement, independent experts, consultants, consulting organizations involved in monitoring (hereinafter referred to as the independent experts).

6. The purpose of the monitoring shall be to ensure the socio-economic interests of the state.

7. The main tasks of monitoring shall be:

1) a comprehensive analysis of the effectiveness of management of monitoring facilities in production, technical, technological, financial, economic, legal, environmental and other parameters and a holistic assessment of the state property in terms of the predictability of its development in accordance with the interests of the national economy;

2) analysis of fulfillment of obligations and conditions of concession agreements or public-private partnership agreements, trust management, property hiring (lease) of state property;

3) identification of problems and development of recommendations for further development of state enterprises and legal entities with the participation of the state (hereinafter referred to as the monitoring facility);

4) expert assessment of the prospects for the development of equipment, technology of monitoring facilities and their impact on the state of the regions;

5) creation and maintenance of an electronic database for monitoring objects;

6) creation of favorable conditions for ensuring economic growth of the state, maximum reduction of the degree of vulnerability of the economy from possible negative factors, promotion of investment inflow into the national economy.

8. The following basic concepts shall be used in these Rules:

1) district authorized body - an executive body financed from the local budget, authorized to dispose of district communal property;

2) basic tracking – annual collection of information, as a result of which the list of monitoring objects subject to analysis, shall be determined;

3) authorized body for communal property of local self-government - the staff of the akim of the city of district significance, settlement, village, rural district;

4) electronic report of communal property - a report on the results of monitoring communal property prepared using the Unified reporting system software and signed by an electronic digital signature of an independent expert issued by the National certification center of the Republic of Kazakhstan (hereinafter referred to as the NCC of the Republic of Kazakhstan);

5) a unified operator in the field of accounting for state property (hereinafter referred to as a unified operator) - a legal entity determined by decision of the Government of the Republic

of Kazakhstan, which shall be entrusted with the tasks of implementing a unified technical policy in the field of organization and accounting of state property;

6) periodic tracking - prompt collection of information on monitoring objects;

7) regional authorized body - an executive body financed from the local budget, authorized to dispose of regional communal property;

8) electronic report of republican property - a report on the results of monitoring of republican property prepared using the Unified reporting system software and signed by an electronic digital signature of the head of the authorized state property management body issued by the NCC of the Republic of Kazakhstan;

9) Excluded by the resolution of the Government of the Republic of Kazakhstan dated 20.06.2022 № 407 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

10) development plan – a document defining the main activities and indicators of financial and economic activities of a state enterprise, joint-stock company and limited liability partnership, the controlling stake (participatory interest in the authorized capital) of which is owned by the state, for a five-year period;

11) action plan – a document defining the main areas of activity and indicators of the financial and economic activities of the national managing holding, the national holding and the national company for a five-year period.

Footnote. Paragraph 8 as amended by the Resolution of the Government of the Republic of Kazakhstan dated 20.06.2022 № 407 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Chapter 2. Procedure for organization of the monitoring

9. By types of state property, republican and communal property shall be monitored, and by levels of local state administration and self-government - monitoring of regional, district communal property and communal property of local self-government.

10. Monitoring of facilities shall be organized by:

1) on republican property - authorized body for state property management;

2) for regional communal property - the regional authorized body;

3) for district communal property - district authorized body;

4) for communal property of local self-government - authorized body for communal property of local self-government.

To carry out work on the survey of monitoring facilities, the collection and analysis of information, the development of recommendations of the regional and district authorized bodies, the authorized body for communal property of local self-government attract independent experts determined in accordance with the Law of the Republic of Kazakhstan dated December 4, 2015 "On public procurement."

The rights and obligations of independent experts shall be governed by the relevant public procurement contract.

11. Monitoring objects shall be:

- 1) state-owned enterprises;
- 2) legal entities with the participation of the state, with the exception of the NWF;
- 3) all types of property that shall be part of state property, including those in trust, property hiring (lease), concessions or transferred under a public-private partnership agreement.

12. Work on monitoring shall be carried out at the expense of budgetary funds.

13. The monitoring results shall be included in the register of state property (hereinafter referred to as the register) in the form of an electronic report.

14. Regional and district authorized bodies, authorized body for communal property of local self-government in order to organize monitoring:

1) Excluded by the resolution of the Government of the Republic of Kazakhstan dated 20.06.2022 № 407 (shall be enforced upon expiry of ten calendar days after the date of its first official publication);

- 2) justify the amount of state budgetary allocations for monitoring work;
- 3) create an interdepartmental commission with the participation of interested state bodies to develop a technical assignment for monitoring;
- 4) carry out methodological support and coordination of monitoring activities.

Footnote. Paragraph 14 as amended by the Resolution of the Government of the Republic of Kazakhstan dated 20.06.2022 № 407 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

14-1. The authorized body for state property management, regional and district authorized bodies, the authorized body for communal property of local self-government, in order to organize monitoring, shall determine the frequency, timing of surveys and the list of monitoring objects based on the following criteria:

- 1) state enterprises and legal entities with state participation that planned a profit, but suffered a loss at the end of the reporting year;
- 2) state enterprises and legal entities with the participation of the state, following the results of the reporting year, which exceeded the planned loss.

Footnote. Chapter 2 as supplemented with paragraph 14-1 in accordance with the Resolution of the Government of the Republic of Kazakhstan dated 20.06.2022 № 407 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Chapter 3. Procedure for monitoring communal property facilities

15. Regional and district authorized bodies, authorized body for communal property of local self-government in order to carry out monitoring:

1) request and receive information from monitoring facilities on production, technical, technological, financial, economic, environmental, legal and other parameters of monitoring facilities activities required for reliable and objective analysis;

2) request and receive from local executive bodies, as well as other interested state bodies and legal entities, regardless of their departmental affiliation, documents and information necessary for analyzing the effectiveness of monitoring facilities management;

3) request from state-owned enterprises and legal entities with the participation of the state, parties to the agreement regular and selective reporting on the implementation of the terms of trust management agreements, property hiring (lease) and concession or public-private partnership agreement, investment programs of legal entities with the participation of the state;

4) conduct systematic observations of the state and trends in the development of state enterprises and legal entities with the participation of the state, collecting and analyzing information on monitoring facilities in order to timely identify and neutralize factors that have an adverse impact on the preservation and strengthening of the resource and energy base of the country's economy and regions;

5) by February 25 of the year following the reporting year, submit analytical notes, reference materials and recommendations to interested state bodies, as well as state enterprises and legal entities with the participation of the state based on the results of monitoring;

6) electronic database of monitoring efficiency of monitoring objects management shall be maintained.

16. State enterprises and legal entities with the participation of the state shall provide the regional authorized body or the district authorized body with all the necessary information for a reliable and objective analysis of the effectiveness of public property management on paper and electronic media.

All necessary information for a reliable and objective analysis of the effectiveness of municipal property management on paper and electronic media shall be submitted to the authorized body for communal property of local self-government by state enterprises and legal entities with the participation of the state.

17. The content of monitoring of communal property facilities shall be as follows:

1) basic comprehensive survey of state enterprises and legal entities with the participation of the state, as well as communal property, including those in trust management, property hiring (lease), concession or transferred under a public-private partnership agreement, carried out no more than once a year;

2) periodic operational collection of information on the activities of state enterprises and legal entities with the participation of the state, as well as the state of communal property, including those in trust, property hiring (lease), concessions or transferred under a public-private partnership agreement intended for the current update of basic monitoring data

on the activities of facilities in the periods between basic comprehensive surveys of monitoring facilities.

This information shall be collected by a request from the monitoring object.

Basic comprehensive surveys of monitoring facilities shall include:

- 1) collection and systematic analysis of information on industrial, technological, financial, economic, environmental and legal parameters of monitoring facilities;
- 2) assessment of the state of efficiency of management of monitoring facilities, forecast of amendments in their state in order to develop recommendations for preventing and overcoming negative processes that constitute a threat to the economic security of the state;
- 3) expert assessment of the prospects for the development of technology, technology of legal entities with the participation of the state, communal property, including those in trust, property hiring (lease), concession or transferred under a public-private partnership agreement ;
- 4) providing state bodies with the necessary information on the state of monitoring facilities, trends and forecasts of their development.

Footnote. Paragraph 17 as amended by the Resolution of the Government of the Republic of Kazakhstan dated 20.06.2022 № 407 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

18. Monitoring of public property shall include analysis of:

- 1) state of resources, technology of main and auxiliary production;
- 2) financial and economic activities;
- 3) investment activities of concessionaires, trustees and co-owners of organizations with this obligation;
- 4) environmental protection and rational use of natural resources;
- 5) personnel and social policy;
- 6) legal issues: compliance of the organization's charter, trust management agreements, property hiring (lease) and concession or public-private partnership agreement;
- 7) fulfillment of obligations and conditions of trust management agreements, property employment (lease) and concession or public-private partnership agreement.

19. Monitoring of communal property facilities shall be carried out in the following order:

- 1) the regional and district authorized bodies or the authorized body for communal property of local self-government, no later than ten working days before the start of the survey of the facility, notify the heads of state enterprises and legal entities with the participation of the state, as well as the party to the contract on the conduct of the survey, indicating independent experts with whom the contracts for the survey were concluded, and the list of information that shall be submitted for familiarization;
- 2) monitoring shall be carried out by a working group formed by independent experts with whom contracts have been concluded for conducting a survey of the monitoring facility, based on the industry affiliation and specifics of the monitoring facility activity. The task of

the working group shall be to collect and analyze information on legal, technical, technological, environmental, investment, financial and other issues of the monitoring object. Members of the working group shall conduct a visual survey of production, buildings, structures, basic equipment, machines and mechanisms. Upon completion of the information collection and its initial analysis, the working group shall prepare a report for its subsequent analysis;

3) systematic analysis of materials obtained as a result of the survey shall be carried out, including:

preliminary analysis, which shall be carried out at the stage of collection of materials and preliminary processing by comparing expert data for all sections and comparing with statistical reporting data;

a general technical and economic analysis of the activities of state enterprises and legal entities with the participation of the state, in which a mutually related set of indicators of state enterprises and legal entities with the participation of the state shall be integrated, as well as the state of communal property, including those in trust, property hiring (lease), concession or transferred under a public-private partnership agreement;

Identify all existing problems for each analysis block

economic and legal analysis of monitoring facilities and relevant state bodies, in which, on the basis of the obtained indicators of the activities of state enterprises and legal entities with the participation of the state, information on the state of communal property, including those in trust, property hiring (lease), concession or public-private partnership transferred under the agreement, and identified problems in accordance with the current legislation, recommendations are made in order to improve the efficiency of management of state enterprises and legal entities with the participation of the state - monitoring objects;

4) based on the survey of the monitoring facility and the analysis of its activities, independent experts who conducted the survey shall draw up a report and primary materials that shall be submitted:

in the paper version to the regional and district authorized bodies or the authorized body for communal property of local self-government;

in the form of an electronic report of communal property to the register with a scanned copy of a paper version of the report signed and certified by a seal of an independent expert attached to it;

5) a unified operator within five working days from the date of receipt of the electronic report of communal property shall send to the electronic address of the independent expert a notification about the inclusion of the electronic report in the register or the reason for the refusal to accept it.

The reason for refusal to accept the electronic report shall be non-compliance by an independent expert with the requirement specified in paragraph 3, subparagraph 4) of this paragraph of the Rules.

19-1. Heads of a state enterprise, executive bodies of legal entities with the participation of the state shall bear disciplinary responsibility for failure to fulfill the planned indicators of the development plan, resulting in unprofitability or loss more than planned, not containing signs of an administrative or criminal offense.

Local executive bodies of regions, cities of republican significance, the capital, districts, cities of regional significance, administrations of akims of cities of district significance, villages, townships, rural districts, taking into account the reports generated by monitoring results and recommendations of independent experts, shall consider the issue and make a decision on imposing disciplinary action against the heads of state enterprises, executive bodies of legal entities with the participation of the state in accordance with the laws of the Republic of Kazakhstan.

If the percentage of voting shares (participatory interests) in legal entities with state participation is less than 100% (one hundred percent), then the issue and decision to impose a disciplinary sanction on the heads of the executive body of legal entities with state participation shall be submitted to a meeting of the Board of Directors and (or) general meeting of shareholders or participants of a limited liability partnership in accordance with the laws of the Republic of Kazakhstan.

Footnote. Chapter 3 as supplemented with paragraph 19-1 in accordance with the Resolution of the Government of the Republic of Kazakhstan dated 20.06.2022 № 407 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Chapter 4. Procedure for monitoring republican property facilities

20. Authorized body for state property management for monitoring purposes shall:

- 1) determine the list of objects for monitoring republican property on the basis of basic tracking, the frequency and timing of surveys;
- 2) request and receive from the central executive bodies, as well as other interested state bodies and legal entities, regardless of their departmental affiliation, documents and information necessary for analyzing the effectiveness of monitoring facilities management;
- 3) request and receive from monitoring facilities information on financial, economic, legal and other parameters of the monitoring facilities activities necessary for the production of reliable and objective analysis;
- 4) perform analysis based on the obtained data from monitoring facilities, central executive bodies, financial and economic indicators and other data from a unified operator;
- 5) based on the results of the analysis, in the presence of the identified comments, generate recommendations and send them to monitoring facilities, central executive bodies;
- 6) by December 25 of the planned year, submit, based on the results of monitoring, analyzes and recommendations to the authorized body for state planning, interested state bodies.

21. State enterprises and legal entities with the participation of the state provide the authorized body for the management of state property with all the necessary information for a reliable and objective analysis of the effectiveness of management on paper and electronic media.

22. The content of monitoring of republican property facilities shall be as follows:

1) basic comprehensive survey of state enterprises and legal entities with the participation of the state, as well as communal property, including those in trust management, property hiring (lease), concession or transferred under a public-private partnership agreement, carried out no more than once a year;

2) periodic operational collection of information on the activities of state enterprises and legal entities with the participation of the state, as well as the state property, including those that are in trust, property hiring (lease), concession or transferred under a public-private partnership agreement, intended for the current update of basic monitoring data on the activities of facilities in the periods between basic comprehensive surveys of monitoring facilities.

The collection of this information shall be carried out by request both from the monitoring object itself and from the central executive bodies and their departments.

Basic comprehensive surveys of monitoring facilities shall include:

1) collection and systematic analysis of information on financial, economic and legal parameters of monitoring facilities;

2) assessment of the state of efficiency of management of monitoring facilities, forecast of state change in order to develop recommendations for preventing and overcoming negative processes that constitute a threat to the economic security of the state;

3) providing state bodies with the necessary information on the state of monitoring facilities, trends and forecasts of their development.

Footnote. Paragraph 22 as amended by the Resolution of the Government of the Republic of Kazakhstan dated 20.06.2022 № 407 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

23. Monitoring of republican property shall include analysis of:

1) financial and economic activities;

2) personnel and social policy;

3) investment activities of concessionaires, trustees and co-owners of organizations with this obligation;

4) legal issues: compliance of the organization's charter, trust management agreements, property hiring (lease) and concession or public-private partnership agreement;

5) fulfillment of obligations and conditions of trust management agreements, property employment (lease) and concession or public-private partnership agreement.

24. Monitoring of republican property facilities shall be carried out in the following order:

1) the authorized body for state property management performs a systematic analysis of materials obtained as a result of basic and periodic tracking, including:

preliminary analysis, which shall be carried out at the stage of collection of materials and preliminary processing by comparing the planned indicators of financial and economic activities with the reporting indicators;

economic and legal analysis with the development of recommendations for monitoring facilities and relevant state bodies;

2) on the basis of tracking the monitoring object and the analysis of its activities by the authorized state property management body, a report shall be formed, which shall be included in the form of an electronic report of republican property in the register with a scanned copy of the paper version of the report attached to it, signed by the head of the authorized state property management body and certified by seal;

3) a unified operator within five working days from the date of receipt of the electronic report of republican property sends a notification to the email address of the authorized body for state property management about the inclusion of the electronic report in the register or the reason for refusal to accept it.

The reason for refusal to accept the electronic report is non-compliance by the authorized body for state property management with the requirement specified in subparagraph 2) of this paragraph of the Rules.

24-1. The head of a state enterprise, the first heads of national managing holdings, national holdings, national companies, heads of executive bodies of legal entities with the participation of the state shall bear disciplinary responsibility for failure to fulfill the planned indicators of the development plan or action plan, resulting in unprofitability or receiving a loss more than planned, not containing signs of administrative or criminal offense.

The authorized body for the management of the relevant branch (sphere) of public administration, taking into account the analyzes and recommendations of the authorized body for state property management formed based on the monitoring results, shall consider the issue and make a decision to impose a disciplinary sanction on the head of the state enterprise, the first heads of national managing holdings, national holdings, national companies, the head of the executive body of legal entities with state participation in accordance with the laws of the Republic of Kazakhstan.

If the percentage of voting shares (participatory interests) in legal entities with state participation is less than 100% (one hundred percent), then the issue and decision to impose a disciplinary sanction on the heads of the executive body of legal entities with state participation shall be submitted to a meeting of the Board of Directors and (or) general meeting of shareholders or participants of a limited liability partnership in accordance with the laws of the Republic of Kazakhstan.

Footnote. Chapter 4 as supplemented with paragraph 24-1 in accordance with the Resolution of the Government of the Republic of Kazakhstan dated 20.06.2022 № 407 (shall

be enforced upon expiry of ten calendar days after the date of its first official publication).

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