



On approval of the Rules of damage compensation to individuals and legal entities caused by suppression of an act of terrorism by legitimate actions of the servants of state bodies engaged in combating terrorism

Unofficial translation

Decree of the Government of the Republic of Kazakhstan dated September 3, 2013 No. 914.

Unofficial translation

Pursuant to subparagraph 6) of paragraph 3 of Article 4 of the Law of the Republic of Kazakhstan “On Countering Terrorism”, the Government of the Republic of Kazakhstan

RESOLVES:

Footnote. Preamble - as amended by the Resolution of the Government of the Republic of Kazakhstan dated 19.10.2023 № 928 (shall be enforced ten calendar days after the date of its first official publication).

1. To approve the attached Rules of damage compensation to individuals and legal entities caused by suppression of an act of terrorism by legitimate actions of the servants of state bodies engaged in combating terrorism.

2. This resolution shall take effect upon expiry of ten calendar days after the first official publication.

*Prime Minister
of the Republic of Kazakhstan*

S. Akhmetov

Approved by
Resolution № 914
of the Government
of the Republic of Kazakhstan
dated September 3, 2013

Rules of damage compensation to individuals and legal entities, caused by suppression of an act of terrorism by legitimate actions of the servants of state bodies engaged in combating terrorism

These Rules of damage compensation to individuals and legal entities, caused by suppression of an act of terrorism by legitimate actions of the servants of state bodies engaged in combating terrorism (hereinafter - the Rules) govern the procedure of compensation for damage to individuals and legal entities caused by suppression of an act of terrorism by legitimate actions of the servants of state bodies engaged in combating terrorism.

2. Compensation for non-pecuniary damage caused to the life and health of individuals during the suppression of an act of terrorism by legitimate actions of the servants of state bodies engaged in combating terrorism shall be carried out in accordance with Articles 937-

946 of the Civil Code of the Republic of Kazakhstan in a judicial proceeding with subsequent damage compensation from reserve funds of the Government of the Republic of Kazakhstan for the fulfillment of obligations on court judgments.

3. Compensation of property damage to individuals and legal entities caused during the suppression of an act of terrorism by legitimate actions of state bodies' servants engaged in fighting terrorism shall be carried out by reimbursing the value of property belonging to these persons (hereinafter - property owners).

4. The ground for compensation for the value of property is loss or damage of property upon confirmation in the order established by the legislation of the Republic of Kazakhstan, existence of a causal link between legitimate actions in the suppression of an act of terrorism of the servants of state bodies engaged in combating terrorism, and the destruction or damage of property.

5. Property damage shall be compensated to the property owner by the authorized state body for coordination of activities in the field of combating terrorism (hereinafter -the authorized body) or its territorial body by paying him in cash from the funds provided in the republican budget for the corresponding year to the authorized state body.

In case of insufficiency of the indicated funds, property damage shall be compensated from the funds of the reserve of the Government of the Republic of Kazakhstan.

6. The right of ownership or other property right, composition of this property, in accordance with the civil legislation of the Republic of Kazakhstan, shall be confirmed by the relevant documents indicated in paragraph 8 of the Rules, also explanations of the property owner and witnesses.

7. Appraisal of the reimbursable value of property shall be conducted by the authorized body or its territorial body with participation of the property owner and the appraiser.

The amount of compensation for the value of property shall be determined on the basis of the report on assessment of the market value of repair and restoration work, taking into account the costs necessary for the restoration (repair) of damaged property, and (or) the amount of depreciation of property due to its damage, or on the basis of the report on assessment of the market value of the property lost as a result of an act of terrorism, at market prices current in the area at the time of compensation for the cost of property, taking into account the wear of lost or damaged property.

The costs of restoration (repair) of damaged property shall be confirmed by an estimate or calculation of the costs of its restoration.

Documented expenses of the property owner on payment for services related to the property appraisal, drawing up of estimates and calculating the costs of restoration (repair) of damaged property shall be included in the reimbursable value of the property.

Footnote. Paragraph 7 - as amended by the Resolution of the Government of the Republic of Kazakhstan dated 19.10.2023 № 928 (shall be enforced ten calendar days after the date of its first official publication).

8. To compensate for the value of property lost or damaged in the suppression of an act of terrorism by legitimate actions of the state bodies' servants engaged in the fight against terrorism, the property owner shall, within thirty calendar days after the counter-terrorism measure, file an application to the authorized body or its territorial body for compensation for the caused property damage filled out according to the form of Appendix 1 to these Rules.

Application for the property damage compensation shall indicate: lost or damaged property, expenses for restoration (repair) of damaged property and (or) size of the markdown of property due to damage, or value of the lost property.

Together with the application for compensation for property damage caused, the property owner shall submit to the authorized body or its territorial body:

1) for individuals - a copy of the identity document of the property owner, for legal entities - a copy of the document confirming the state registration of the legal entity;

2) a statement issued by the head of the republican, oblast, city of republican status, capital, district (city of oblast subordination) and maritime operational headquarters for combating terrorism, verifying the fact of damage to property in the area of the anti-terrorist operation (indicating whether it was damaged or destroyed property);

3) documents confirming the right of ownership or other right to the property, its composition, expenses for restoration of the damaged property, the size of the markdown of property due to the damage, value of the lost property (in their existence).

Footnote. Paragraph 8 - as amended by the Resolution of the Government of the Republic of Kazakhstan dated 19.10.2023 № 928 (shall be enforced ten calendar days after the date of its first official publication).

9. If it is impossible for the property owner to personally apply, his close relatives, also legal representatives in the event he has not reached the age of eighteen (coming of age) may apply by proxy to the authorized body or its territorial body for compensation for the caused property damage.

10. An application for compensation for the caused property damage shall be examined by the authorized body or its territorial body within a month from the date of receipt by the authorized body of the documents specified in paragraph 9 of the Rules.

In the event of submitted incomplete package of documents referred to in paragraph 8 of the Rules, consideration of the application shall be suspended, and the applicant shall be notified in writing by the authorized body or its territorial body of the need to submit the missing documents no later than thirty calendar days from the notification receipt.

If the applicant has not submitted the missing documents within the indicated time, the application for compensation for property damage shall be returned to him without consideration. Refusal to consider the application does not deprive the applicant of the opportunity to resend the application.

11. Application shall be registered in the registration log of applications for compensation for property damage and executed payments according to the form of Appendix 2 to these Rules, with the issuance of the application acceptance receipt to the property owner.

12. Within seven working days from the date of registration of the application the authorized body or its territorial body, shall organize the damage appraisal procedure by involving an appraiser selected by the property owner to determine, in accordance with the legislation of the Republic of Kazakhstan on appraisal activities, the market value of repair and restoration work or the market value of property in case it cannot be restored.

In this event, the costs associated with organizing the appraisal of damage caused to property shall be borne by the authorized body or its territorial bodies.

Footnote. Paragraph 12 - as amended by the Resolution of the Government of the Republic of Kazakhstan dated 19.10.2023 № 928 (shall be enforced ten calendar days after the date of its first official publication).

13. Organization of appraisal of repair and restoration works or property value shall include the following stages:

1) selection by the property owner of an appraiser in accordance with the registers of members of the chambers of appraisers posted on the internet resources of the chambers of appraisers;

2) determination of the time and place of appraisal by agreement with the property owner;

3) conduct of the appraisal of the damaged property;

4) familiarization of the property owner with the assessment report.

Footnote. Paragraph 13 as amended by the Resolution of the Government of the Republic of Kazakhstan dated 19.10.2023 № 928 (shall be enforced ten calendar days after the date of its first official publication).

14. In the assessment of the amount of damage caused to the property, the cost of its restoration shall be calculated on market prices effective on the day of the damage occurrence, minus the accumulated depreciation (wear) of the property before the damage occurred.

15. The amount of damage caused during destruction of the property shall be determined by its market value on the day of the damage occurrence.

Property is considered destroyed if its restoration is technically impossible or economically unreasonable. Property restoration is considered economically unjustified if the expected expenses for property restoration exceed eighty percent of its market value on the day of the damage occurrence.

16. If the authorized body or its territorial body fails to organize an appraisal by an appraiser within the term established by paragraph 12 of these Rules, the property owner may independently choose an appraiser and avail of his services.

The documented expenses of the property owner on payment for the appraiser's services shall be included in the amount of compensated damage.

Footnote. Paragraph 16 as amended by the Resolution of the Government of the Republic of Kazakhstan dated 19.10.2023 № 928 (shall be enforced ten calendar days after the date of its first official publication).

17. In case of refusal to reimburse the value of the property, the authorized body or its territorial body shall send a written notification to the applicant indicating the reasons for the refusal.

18. After the appraiser draws up an appraisal report based on the application and relevant documents, the authorized body, within three banking days, shall transfer funds to the current or savings account specified in the application of the property owner.

Footnote. Paragraph 18 as amended by the Resolution of the Government of the Republic of Kazakhstan dated 19.10.2023 № 928 (shall be enforced ten calendar days after the date of its first official publication).

19. After the damage compensation an appropriate entry shall be made in the registration log of applications for property damage compensation and executed payments, with indication of the date, compensation size for the damage and the number of the payment document.

20. Disputes arising between the lost or damaged property owner and the authorized body regarding reimbursement of its value shall be resolved in court in accordance with the legislation of the Republic of Kazakhstan.

21. Actions pursuing illegitimate receipt of payments shall entail liability provided for by the legislation of the Republic of Kazakhstan.

Appendix 1
to the Rules of damage compensation
to individuals and legal entities
caused by suppression of an act
of terrorism by legitimate actions
of the servants of state bodies
engaged in combating terrorism

Footnote. Appendix 1 as amended by the Resolution of the Government of the Republic of Kazakhstan dated 19.10.2023 № 928 (shall be enforced ten calendar days after the date of its first official publication).

Application form

to the Head of _____

(name of the authorized state body
coordinating terrorism combating
activities, or its territorial body
Full name of the official)
from _____
_____,
(Full name, details of the applicant)
residing or staying _____

-

Application for compensation for property damage caused

I request compensation for material damage caused in connection
with _____

(time, place, nature of the event)

in the anti-terrorist operation area, including _____

(expenses for restoration, (repair) of the damaged property and (or) the amount
of depreciation of property due to its damage, or the value of lost property)

I ask to reimburse the material damage to the address: _____

(oblast, district, city, residence or staying address)

Name of the bank _____

BIC, IIC of the bank _____

Current or savings account _____

in the name of _____

(Full name, details)

IIN of the beneficiary _____

I attach the following documents to the application:

1. _____

2. _____

3. _____

4. _____

5. _____

" _____ " Applicant _____

(date, month, year)

(signature, full name)

(cut off line)

Citizen's application _____

Registered under № _____ Date of application acceptance _____

Full name, position and signature of the person who accepted the application _____

" _____ " _____

(date, month, year)

Applicant _____

(signature, full name)

Registration log of applications for compensation for property damage caused and payments made

Footnote. Appendix 2 as amended by the Resolution of the Government of the Republic of Kazakhstan dated 19.10.2023 № 928 (shall be enforced ten calendar days after the date of its first official publication).

No.	Full name or details of the applicant	Date of the application acceptance, incoming No.	Address of residence, staying	Reason for material damage compensation (brief description of the place, time)	The size of caused material damage	No. and date of the payment document on the paid funds (registrar's signature)
1	2	3	4	5	6	7