



On approval of the Rules for the provision of cable ducts for use

Unofficial translation

Order No. 120 of the Acting Minister for Investments and Development of the Republic of Kazakhstan dated January 28, 2016. Registered with the Ministry of Justice of the Republic of Kazakhstan on February 29, 2016 № 13328.

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Pursuant to subparagraph 8-6 of paragraph 1 of Article 8 of the Law of the Republic of Kazakhstan dated July 5, 2004 “On Communications” **I hereby ORDER:**

1. To approve the attached Rules for the provision of cable ducts for use.
2. The Committee for communications, informatization and information of the Ministry for Investments and Development of the Republic of Kazakhstan (T.B. Kazangap) shall:
 - 1) ensure the state registration of this order with the Ministry of Justice of the Republic of Kazakhstan;
 - 2) send the copy of this order in a printing and electronic variant to official publication in periodicals and an information and legal system "Adilet" within ten calendar days after the state registration in the Ministry of Justice of the Republic of Kazakhstan, as well as to the Republican Centre of Legal Information within ten calendar days from the date of receipt of the registered order for inclusion in the reference control bank of regulatory legal acts of the Republic of Kazakhstan;
 - 3) place this order on the Internet resource of the Ministry for Investments and Development of the Republic of Kazakhstan and on the intranet portal of state bodies;
 - 4) within ten working days after the state registration of this order in the Ministry of Justice of the Republic of Kazakhstan, submit to the Legal Department of the Ministry for Investments and Development of the Republic of Kazakhstan information on the execution of measures provided for in subparagraphs 1), 2) and 3) of paragraph 2 of this order.
3. Control over the execution of this order shall be entrusted to the supervising Vice-Minister for Investments and Development of the Republic of Kazakhstan.
4. This order shall be enforced upon expiry of ten calendar days after the date of its first official publication.

*Acting Minister
for Investments and Development
of the Republic of Kazakhstan*

Zh. Kassymbek

Approved
by order № 120 of the Acting
Minister for Investments
and Development

The Rules for the provision of cable ducts for use

Footnote. Rules - as amended by the Order of the Minister of Digital Development, Innovation and Aerospace Industry of the Republic of Kazakhstan No. 22/HK dated 23.01.2023 (shall be enforced ten calendar days after the day of its first official publication).

1. These Rules for the provision of cable ducts for use (hereinafter referred to as the Rules) have been developed in accordance with subparagraph 8-6) of paragraph 1 of Article 8 of the Law of the Republic of Kazakhstan "On Communications" and shall determine the procedure for providing cable ducts for use.

2. The following terms and abbreviations shall be used in these Rules:

1) cable duct - a set of underground pipelines and wells intended for laying, installation and maintenance of communication cables;

2) place in the cable duct - the place (area) occupied by the communication cable in the cable duct;

3) free capacity of the cable duct - the free cross-sectional area of the duct/channels of the cable duct, which is not reserved/booked, is available for use and is not provided by the lessor for use in the next twelve months;

4) cable duct lessee (hereinafter referred to as the Lessee) - an individual or legal entity that receives from the cable duct lessor on contractual terms services for the provision of cable duct for use;

5) cable duct lessor (hereinafter referred to as the Lessor) - an individual or legal entity that is the owner of the cable duct, providing on contractual terms a place in the cable duct channel to lessees for laying communication cables;

6) cable duct pipeline channel (hereinafter referred to as Channel) - the internal cavity of the cable duct pipeline, intended for laying communication cables;

7) technical conditions for laying a communication cable in a cable duct (hereinafter referred to as TC) - technical requirements for obtaining a cable duct for use;

8) commission on cable ducting - a collegial body formed by the authorized body with the involvement of representatives of the authorized body, the National Chamber of Entrepreneurs of the Republic of Kazakhstan "Atameken" and industry associations;

9) applicant - an individual or legal entity that has submitted an application to the lessor for the provision of services for the provision of cable ducts for use;

10) work permit - written consent of the lessor, drawn up on paper or in electronic form, for the production of repair and restoration and scheduled preventive work of the communication cable laid in the cable duct provided for use by the lessee.

4. The provision of cable ducts for use shall be a set of organizational and technical measures, including:

- 1) sending by the applicant to the lessor an application in any form for receiving services for the provision of cable ducts for use;
- 2) development and issuance by the lessor to the applicant of technical specifications;
- 3) booking by the lessor of a place in the cable duct for the applicant;
- 4) approval by the lessor of the working draft of laying the communication cable in the cable duct;
- 5) conclusion of an agreement for the provision of cable ducts for use;
- 6) technical supervision of the lessor over the laying of the communication cable in the cable duct and the use of the cable duct.

The lessor shall publish on the official Internet resource a set of organizational and technical measures necessary for the provision of cable ducts for use.

6. The application shall be submitted to the lessor in writing, executed on paper or in electronic form, and sent to the Internet resource of the lessor. The application on paper shall be submitted by the applicant to the landlord in two copies, one of which with the incoming registration number of receipt shall be returned by the landlord to the applicant.

7. Applications shall be considered by the lessor in the order they are received, up to fifteen calendar days from the date of submission of the application by the applicant.

If necessary, the landlord shall extend the period for consideration of the application by fifteen calendar days with the notification of the applicant and indication of the reasons for the extension, in accordance with paragraph 3 of Article 76 of the Administrative Procedural and Process-related Code of the Republic of Kazakhstan.

8. In the absence of free cable duct capacity, the lessor, within ten calendar days from the date of receipt of the application, shall offer the applicant to expand the existing cable duct in the direction required by the applicant on a contractual basis (concession).

In case of disagreement with the proposal of the lessor to expand the existing sewage system in the required direction, the applicant shall apply to the authorized body.

The authorized body shall engage the cable duct commission to conduct a technical inspection of the cable duct to consider the validity of the lessor's refusal to issue technical specifications and the lack of free capacity, the absence of actions to establish deliberately restrictive conditions, the absence of imposing additional requirements that are not related to the provided regulated service.

Based on the results of consideration of the application, the authorized body within fifteen working days shall send a letter to the applicant about the decision made and the results of the technical inspection of the cable duct, in accordance with the Administrative Procedural and Process-related Code of the Republic of Kazakhstan, with photo and video materials attached.

9. If there is no free capacity of the cable duct and the applicant refuses to expand the existing cable duct, the lessor shall, within thirty calendar days from the date of receipt of the application, provide a response to the applicant about the refusal to provide the cable duct for use.

The applicant shall, in agreement with the lessor, local executive bodies and the authorized body, expand the existing cable duct on a contractual basis at his own expense. Compensation for the costs incurred shall be agreed between the lessor and the applicant.

10. If there is free capacity in the cable duct, the lessor shall, within thirty calendar days from the date of receipt of the application, provide the applicant with the specifications, based on which the applicant shall develop or order the development of a working design for laying a communication cable.

When issuing the technical specifications, no condition shall be established for the transfer to the ownership of the lessor of communication cables and cable duct facilities built at the expense of the applicant.

The applicant shall, in agreement with the lessor, local executive bodies and the authorized body, carry out on a contractual basis the laying of additional channels to the cable duct at his own expense. Compensation for the costs incurred shall be agreed between the lessor and the applicant.

13. Herein, when issuing the technical specifications, the lessor shall make a reservation for a place in the cable duct. The term for booking a place in the cable duct shall not exceed the validity period of the technical specifications.

Reservation by the lessor of a place in the cable duct for the applicant consists in securing a place in the cable duct for the applicant for further use in accordance with the issued specifications.

15. The requirements for the working draft before the start of the design shall be published on the Internet resource of the lessor.

16. The lessor shall, in writing, executed on paper or electronically on the Internet resource of the lessor, agree or send to the applicant a reasoned refusal to agree on the working draft within ten working days from the date of receipt of the working draft.

In case of disagreement with the refusal, the applicant shall apply to the authorized body to consider the validity of the lessor's refusal.

For comprehensive consideration, the authorized body shall engage the cable duct commission under the authorized body to conduct a technical inspection of the cable duct and study the working draft to consider the validity of the lessor's refusal.

Based on the results of consideration of the application, the authorized body shall within fifteen working days send a letter to the applicant about the decision made and the results of the technical inspection of the cable duct, in accordance with the Administrative Procedural and Process-related Code of the Republic of Kazakhstan, with photo and video materials attached.

17. After agreeing on the working draft, the lessor and the applicant shall, within five working days from the date of agreeing on the working draft, conclude an agreement on the provision of cable ducts for use.

21. To obtain permission to carry out installation work in the cable duct in accordance with the working draft, the lessee shall, in writing or electronic form on the Internet resource, apply to the landlord. The appeal shall define the section (sections) of the cable duct, on which it is planned to perform work according to the working draft, and the timing of these works.

The following shall be attached to the application:

- 1) a list of persons who will carry out work on the cable duct site;
- 2) a letter of guarantee from the lessee on the involvement of a contractor to perform construction work (if involved);
- 3) a copy of the agreed working draft;
- 4) details of the Agreement;
- 5) copies of the license to carry out activities in the field of architecture, urban planning and construction, or a copy of the Agreement with a contractor holding such a license.

22. The lessor shall, within ten working days from the date of registration of the application, check the submitted documents, agree on the terms and procedure for the work, conduct a survey of the technical condition of the cable duct and organize the delivery of the cable duct to the lessee (contractor) at the site (sites) on which it is planned performance of work, with the execution of the relevant act, which determines the actual state of the cable duct in the indicated areas. If it is impossible to perform work on laying the cable, the act shall determine the procedure and deadline for eliminating defects.

After the elimination of defects, within five working days, an appropriate act for the provision of a cable duct section shall be drawn up and signed.

23. The lessee (contractor) shall carry out the installation of cables in accordance with the working draft.

The lessee's communication cable shall be laid in the leased part of the cable duct in accordance with the specifications.

All construction and installation work in the cable duct, performed by the lessee and/or contractor, shall be agreed upon within five working days from the date of the lessee's request and shall be carried out under the supervision of the technical supervision inspector of the lessor.

To establish the compliance of the work performed on laying the communication cable with the detailed design, current standards and specifications, as well as to determine the quality of the work, the latter is subject to acceptance within five working days.