



On approval of the Rules of pricing for goods, works, services produced and sold by the state monopoly subject, special law

Unofficial translation

Order of the Minister of National Economy of the Republic of Kazakhstan № 134 dated March 15, 2016. It was registered with the Ministry of Justice of the Republic of Kazakhstan on April 13, 2016 under № 13588.

Unofficial translation

Footnote. The title - in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

In compliance with paragraph 1 of Article 120 of the Entrepreneurial Code of the Republic of Kazakhstan dated October 29, 2015 and subparagraph 4-5) of Article 13 of the Law of the Republic of Kazakhstan dated March 1, 2011 “On State Property” **I HEREBY ORDER:**

1. Approve the attached Pricing Rules for goods, works, services produced and implemented by the subject of the state monopoly, special law.

Footnote. Paragraph 1 - in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

2. Order of the Minister of National Economy of the Republic of Kazakhstan No. 178 dated December 29, 2014 “On Approval of the Pricing Rules for Goods Produced and Sold by a State Monopoly Entity” (registered with the Register of State Registration of Regulatory Legal Acts under No. 10150, published in Adilet, the legal information system on February 26, 2015) shall be deemed as lost force.

3. In the manner prescribed by the legislation of the Republic of Kazakhstan, the Committee for Regulation of Natural Monopolies and Protection of Competition of the Ministry of National Economy of the Republic of Kazakhstan shall:

1) ensure state registration of this order with the Ministry of Justice of the Republic of Kazakhstan;

2) send a copy hereof in print and electronic form for official publication in periodicals and Adilet, the legal information system within ten calendar days after its state registration with the Ministry of Justice of the Republic of Kazakhstan, as well as with the Republican Legal Information Center within five working 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 of National Economy of the Republic of Kazakhstan and on the Internet portal of government agencies;

4) within ten business days after the state registration of this order, submit to the Legal Department of the Ministry of National Economy of the Republic of Kazakhstan the information on the implementation of measures provided for in subparagraphs 1), 2) and 3) of this paragraph.

4. The control over the execution of this order shall be assigned to the Supervising Vice Minister of National Economy of the Republic of Kazakhstan .

5. This order shall come into force ten calendar days after the day of its first official publication.

*Minister
of National Economy
of the Republic of Kazakhstan*

Y. Dossayev

Approved
by order of the Minister of
National Economy of the
Republic of Kazakhstan
No. 134 dated March 15, 2016

Rules

**of pricing for goods, works, services produced and implemented by the subject
of the state monopoly, special law**

Footnote. The title - in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

Chapter 1. General Provisions

1. These Rules of pricing for goods, works, services produced and implemented by the subject of the state monopoly, special law (hereinafter referred to as the Rules) have been developed in accordance with the Business Code of the Republic of Kazakhstan (hereinafter referred to as the Code).

Footnote. Paragraph 1 - in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

2. The following concepts shall be used to apply these Rules:

1) subject of special law - a state-owned enterprise, joint-stock company, limited liability partnership determined in accordance with the procedure established by the Government of the Republic of Kazakhstan in accordance with paragraph 3 of Article 193 of the Code;

2) pricing - the process of formation and consideration of prices for goods, works, services produced and implemented by the subject of the state monopoly, special law;

- 3) distribution base - quantitative indicator (s) used for cost distribution;
- 4) distribution factor - the share of indirect costs obtained as a result of the use of a distribution base for separate accounting of costs between goods, works, services;
- 5) public hearings - the procedure for discussing draft prices for goods, works, services classified as state monopoly, special law, conducted by an authorized state body with the invitation of consumers, representatives of the antimonopoly body, state bodies of public associations, independent experts, the media, the National Chamber of Entrepreneurs "Atameken" of the Republic of Kazakhstan and subjects of state monopoly, special law;
- 6) newly formed entity – an entity of the state monopoly, special law, producing and selling goods, works, services less than one calendar year from the moment of creation, which did not have actual costs for one financial year;
- 7) state monopoly entity - a state enterprise, with the exception of the State Corporation "Government for citizens," the Social health insurance fund, the State technical service, created by decision of the Government of the Republic of Kazakhstan;
- 8) reasonable price - a price determined on the basis of reasonable costs and profits of the subject of the state monopoly, special law;
- 9) cost - a set of costs taken into account by the authorized body in the price for the goods, work, services produced and sold by the subject of the state monopoly, special right;
- 10) direct costs for goods, work, service - costs that shall be directly and unambiguously attributed to a certain product, work, service.
- 11) indirect costs for goods, work, service - costs that cannot be attributed directly and unequivocally to a certain product, work, service, but can be allocated to goods, works, services based on distribution bases reflecting the causes of costs;
- 12) authorized state body - the central executive body and (or) its department, which supervises the relevant area of the state monopoly, special law.

Other concepts and terms used in these Rules shall be applied in accordance with the current legislation of the Republic of Kazakhstan.

Footnote. Paragraph 2 - in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

Chapter 2. Pricing for goods, works, services produced and implemented by the subject of the state monopoly, special law

Footnote. The title of Chapter 2 - in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

3. The formation of prices for goods, works, services of the subject of the state monopoly, special right shall be carried out on the basis of separate accounting of costs for each type of goods, works, services.

Footnote. Paragraph 3 - in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

3-1. Separate accounting shall be a system for collecting and summarizing data on income and costs separately for each type of goods, works, services.

Footnote. The Rules as added by paragraph 3-1 in accordance with the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

3-2. Separate accounting shall be based on primary accounting and management accounting documents, which provide the necessary level of detail for the division of income and costs by types of goods, works, services in accordance with these Rules.

Footnote. The Rules as added by paragraph 3-2 in accordance with the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

3-3. In order to maintain separate accounting of income and costs, the state monopoly subject of special law shall define its own distribution bases for each type of goods, works, services in the form of a separate section of accounting policy, taking into account paragraph 3-6 of these Rules.

Footnote. The Rules as added by paragraph 3-3 in accordance with the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

3-4. As the basis of distribution, the subject of the state monopoly, special law chooses such indicators as the volume of sales of goods, works, services in kind, or the income received from these goods, works, services, and personnel remuneration.

Footnote. The Rules as added by paragraph 3-4 in accordance with the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

3-5. Revenues from the sale of goods, works, services shall be recorded separately for each type of goods, works, services, including for technologically related activities on the basis of primary documents and accounting data:

1) according to the types of activities referred to the sphere of state monopoly, special law - in accordance with the actual volume of sales of goods, works, services and prices approved by the authorized body;

2) for other types of activities, including technologically related to the state monopoly, special law - based on income from the sale of other goods, works, services, depending on the volume of relevant goods, works, services and prices at which these goods, works, services have been provided.

Footnote. The Rules as added by paragraph 3-5 in accordance with the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

3-6. Direct costs for the production and sale of goods, works, services shall be directly related to a certain type of goods, works, services.

Indirect costs for the production and sale of goods, works, services relate to a certain type of goods, works, services according to distribution factors calculated on the basis of distribution bases determined by accounting policy.

Footnote. The Rules as added by paragraph 3-6 in accordance with the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

3-7. Personnel remuneration expenses related to the production and sale of one type of goods, works, services shall be direct and fully related to a certain type of goods, works, services.

Personnel remuneration expenses related to the production and sale of two or more types of goods, works, services shall be indirect and are distributed to the types of goods, works, services using the distribution base and distribution coefficient.

Footnote. The Rules as added by paragraph 3-7 in accordance with the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

4. The formation of prices for goods, works, services produced and sold by the newly formed subject of the state monopoly, a special right shall be carried out on the basis of the planned costs, subject to repeated examination of prices after the calendar year for the actual costs generated.

Footnote. Paragraph 4 - in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

5. When forming a reasonable price for goods, works, services of a state monopoly subject, a special right, expenses directly related to the production (provision) of goods, works, services and confirmed by supporting documents (contracts, invoices, financial documents) are taken into account in the cost price:

1) material costs, determined on the basis of prices provided in the supporting documents (contracts, invoices), and the physical volume of material resources, based on the applicable norms for the consumption of raw materials, materials, fuel, energy, material resources for the release of a unit of goods, work, services and (or) annual norms of material resources;

2) funds allocated by the entity for current and overhaul repairs and other repair and restoration works that do not lead to an increase in the cost of fixed assets, if there is documented technical confirmation of the need for their implementation and summary estimates, object, local and resource estimates (separately for each object);

3) subsidies allocated to the entity from the state budget, which are taken into account in the reduction of the cost part of the price, with the exception of subsidies aimed at expenses not included in the cost part of the price;

4) for staff remuneration, including payments of surcharges and allowances for working conditions in accordance with labor legislation, are taken into account in pricing, while in determining the cost of labor, the actual number of staff (administrative, managerial and production) and average monthly wages at current prices, taking into account the projected change in inflation;

5) for depreciation deductions, which are determined using the method provided for by the accounting policy of the entity, and are directed to overhaul works leading to an increase in the value of fixed assets for the implementation of investment programs (projects);

6) the cost of paying interest on borrowed funds for the implementation of an investment project or the acquisition of fixed assets involved in the production of goods, works, services (in the absence of an investment program (project), if there is documentary evidence of the need to attract them, the conditions for financing potential suppliers, services and return of borrowed resources;

7) for audit, consulting, marketing services;

8) to pay for emissions into the environment;

9) for mandatory types of insurance, taxes, fees and other obligatory payments to the budget, taken into account in the expenses of the period.

Footnote. Paragraph 5 as amended by the order of the Chairman of the Agency for Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

6. When forming the prices of a state monopoly subject, a special right, the cost price does not take into account expenses that are not directly related to the production (provision) of goods, works, services, as well as not confirmed by supporting materials (contracts, invoices, financial documents), including:

1) depreciation of fixed assets not used in the production (provision) of goods, work, services;

2) payments for excess emissions (discharges) of pollutants;

3) irrecoverable debts;

4) fines, penalties, forfeits and other types of sanctions for violation of the terms of business contracts, court costs;

5) fines and penalties for concealing (understating) income;

6) losses from theft;

7) for the maintenance of unused assets in the production of servicing farms and plots;

8) for the maintenance of health facilities, kindergartens, educational institutions, with the exception of educational organizations that implement educational programs of technical and vocational education;

- 9) for the maintenance of health camps, cultural and sports facilities, housing stock;
- 10) for the repayment of loans, including interest-free, received by employees of the organization to improve housing conditions, the purchase of garden houses and home improvement;
- 11) to conduct cultural, educational, recreational and sports events;
- 12) for the improvement of garden associations (road construction, energy and water supply, the implementation of other expenses of a general nature);
- 13) to provide sponsorship;
- 14) for losses from marriage;
- 15) for the acquisition, rental and maintenance of apartments, residential buildings and structures, places in dormitories and hotels for personnel of entities, with the exception of shift production organization;
- 16) for the acquisition of gifts for anniversaries or for those issued as incentives to employees;
- 17) for excessive technical and commercial losses, damage and shortage of inventory, stocks in warehouses and other unproductive expenses;
- 18) for bonuses and other forms of incentives based on the results of work;
- 19) to conduct and organize training courses, seminars, trainings, lectures, exhibitions, discussions, meetings with scientists and artists, scientific and technical conferences, with the exception of activities related to the production need;
- 20) on membership fees to public organizations and associations;
- 21) to pay for educational leave of workers studying in educational institutions;
- 22) to pay vouchers to employees and their children for treatment, rest, excursions at the expense of the entity, except for expenses related to the rehabilitation treatment of occupational diseases;
- 23) insurance payments (contributions paid by the entity under personal and property insurance contracts concluded by the entity in favor of its employees), with the exception of deductions established by Chapter 2 of the Law of the Republic of Kazakhstan dated April 25, 2003 “On Compulsory Social Insurance”;
- 24) to pay for additionally granted (in excess of those stipulated by Article 87 of the Labor Code of the Republic of Kazakhstan dated November 23, 2015) leave to employees, including for women raising children, payment of travel expenses of family members of the employee to the place of the leave and back;
- 25) benefits to employees of the entity, except as provided for by the legislation of the Republic of Kazakhstan;
- 26) to compensate for the cost of food for children in kindergartens, sanatoriums and health camps;
- 27) deductions to trade unions for the purposes determined by the collective agreement.

Footnote. Paragraph 6 as amended by the order of the Chairman of the Agency for Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

7. Excluded by order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

8. According to subparagraph 29) of Article 90-6 of the Code, the antimonopoly authority shall conduct an examination of the price of goods, works, services produced and sold by the subject of the state monopoly, special law in accordance with these Rules.

To conduct an examination of prices, the subjects of the state monopoly, special rights shall represent:

1) information on selling prices with the attachment of supporting materials confirming the price level, no later than thirty calendar days from the date of the introduction of the state monopoly, special right to goods, works, services in writing;

2) at least thirty calendar days' notice of the upcoming change (increase and/or decrease) in prices for goods, works, services and reasons for their change (increase and/or decrease) with the provision of substantiating materials confirming the reasons for the amendment (increase and/or decrease).

The following shall be attached to the notification of the forthcoming change (increase and (or) decrease) in prices:

1) documents confirming the reasons for the change (increase and (or) decrease) (copies of the relevant agreements confirming the change (increase and (or) decrease) in the cost of raw materials, materials, services);

2) project prices for each type of activity;

3) balance sheet;

4) profit and loss statement;

5) report on labor and wages;

6) a report on production and financial activities;

7) the presence and movement of fixed assets and intangible assets;

8) summary data on income and expenses used to calculate the project prices with breakdowns by cost items for the whole enterprise and separately for each type of activity;

9) information about the applicable pay system;

10) information on the applicable norms for the consumption of raw materials and materials, the standard number of employees;

11) accounting policy;

12) investment programs (projects), if any;

13) annual cost estimates aimed at current and overhaul repairs and other repair and restoration work, not leading to an increase in the value of fixed assets;

14) annual cost estimates aimed at carrying out major repairs, leading to an increase in the value of fixed assets;

15) calculation of depreciation deductions with an indication of the life of fixed assets;

16) documents confirming the planned sales volume - minutes of intentions, contracts, calculations of production (supply) volumes, data on the design capacity and its actual use, as well as in case of reduction in production (supply) volumes by the entities, justification is presented;

17) a breakdown of receivables and payables;

18) protocol on holding public hearings.

Footnote. Paragraph 8 as amended by the order of the Chairman of the Agency for Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

9. The term of the examination shall be no more than ninety calendar days from the date of receipt of the notice or information. The total examination period shall not exceed one hundred and twenty calendar days.

10. During the consideration of the notification or information, the antimonopoly authority shall have the right to request additional information and (or) documents necessary for making a decision from the subject of the state monopoly, special right within a period that cannot be less than five working days.

Footnote. Paragraph 10 - in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

11. For the period of submission of additional information and (or) documents, the period of consideration shall be suspended until the subject of the state monopoly presents the special right of the relevant additional information and (or) documents.

Footnote. Paragraph 11 - in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

12. The antimonopoly authority shall resume the consideration of the notice or information after the submission of additional information and (or) documents by the subject of the state monopoly, special law.

Footnote. Paragraph 12 - in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

13. The calculation of the examination period shall be continued from the date of its renewal.

Chapter 3. Procedure for holding public hearings of subjects of state monopolies, special rights to goods, works, services classified as state monopoly, special law

Footnote. The title of Chapter 3 - in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

14. Principles of public hearings:

- 1) publicity;
- 2) maintaining a balance of interests of consumers and subjects of the state monopoly, special law;
- 3) transparency of the formation of prices for goods, works, services related to the state monopoly, special law.

Footnote. Paragraph 14 - in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

15. The authorized state body, twenty calendar days before the date of the public hearing, shall place on its Internet resource and publish an announcement on holding public hearings in their republican print media.

Public hearings shall be held prior to the submission to the competition authority of a notice or information to conduct a price review.

16. The announcement of the upcoming public hearing shall include the following details:

- 1) name and location of the hearing organizer;
- 2) date, place and time of the hearings;
- 3) the name of the subject of the state monopoly, special law and the type of goods, works, services referred to the state monopoly, the special right for the approval of prices of which a notification or information shall be submitted;
- 4) contact numbers of the authorized state body and the subject of the state monopoly, the special right under which information can be obtained;
- 5) the address of the Internet resource of the authorized state body and subject of the state monopoly, special law (if any).

Footnote. Paragraph 16- in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

17. The subject of the state monopoly, special law after the publication of information on the date of public hearings at the request of participants in public hearings before public hearings, within three working days shall submit in writing:

- draft prices for goods, works, services classified as state monopoly, special law;
- information on the reasons for the increase in prices for goods, works, services classified as a state monopoly, special law with economically reasonable calculations.

Footnote. Paragraph 17 - in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

18. The hearings shall be held at the premises indicated in the announcement of the upcoming public hearing, with unhindered access.

19. For holding public hearings, the chairman of the public hearings (hereinafter referred to as the Chairman) shall be appointed from among the employees of the authorized state body. The chairman shall appoint the secretary of the public hearings from among the employees of the authorized state body that keeps the minutes.

20. The minutes shall be kept in the process of conducting public hearings.

21. The Chairperson shall establish the time limit for each public hearing.

22. The Chairperson shall open the hearing at the appointed time, announce their purpose and agenda. The Chairperson shall familiarize the participants with the schedule of the hearings.

23. In his speech, the subject of the state monopoly, special law shall give a detailed explanation and justification of the proposed level of prices for goods, works, services attributed to the state monopoly, special law with the application of confirming photos, video materials (if any).

Footnote. Paragraph 23 - in the wording of the order of the Chairman of the Agency for the Protection and Development of Competition of the Republic of Kazakhstan dated 13.04.2022 No. 7 (shall enter into force from 01.07.2022).

24. The Chairperson shall ask questions to speakers at public hearings, set out his position on issues under discussion, interrupt the speech of the participant in the hearings that violates the rules of the hearing, as well as statements that are not relevant to the topic of public hearings.

A person who violates order during a public hearing shall be cautioned by the Chairperson . In case of repeated violation of the order, the person participating in the hearings shall be removed from the premises.

25. Participants in public hearings shall express their point of view, opinions on the issue under discussion, ask questions to speakers, use auxiliary materials (posters, schedules and others) in their speech and attach a written statement to the minutes.

26. The Chairperson shall summarize the hearing and close the public hearing.