



On approval of Rules of implementation of trading activity of pawnshops

Invalidated Unofficial translation

Joint order of the Minister of National Economy of the Republic of Kazakhstan of August 29, 2018 No. 12 and of the Minister of Internal Affairs of the Republic of Kazakhstan of August 29, 2018 No. 608. Registered with the Ministry of Justice of the Republic of Kazakhstan on November 2, 2018 No. 17673.

Unofficial translation

Footnote. It was revoked by the joint order of the Minister of Trade and Integration of the Republic of Kazakhstan No. 13-NK dated February 3, 2020 and the Minister of Internal Affairs of the Republic of Kazakhstan No. 90 dated February 6, 2020 (effective ten calendar days after the date of its official publication).

In accordance with sub-paragraph 4-2) of Article 7 of the Law of the Republic of Kazakhstan of April 12, 2004 “On Regulation of Trading Activities”, we hereby ORDER:

1. Approve the attached Rules of implementation of trading activities of pawnshops
2. The Department of Regulation of Trading Activity of the Ministry of National Economy of the Republic of Kazakhstan, in accordance with the procedure established by the legislation, shall:
 - 1) provide the state registration of this joint order with the Ministry of Justice of the Republic of Kazakhstan;
 - 2) within ten calendar days from the date of state registration of this joint order with the Ministry of Justice of the Republic of Kazakhstan, direct it in the Kazakh and Russian languages to the Republican State Enterprise with the Right of Economic Management “Republican Center of Legal Information” for official publication and inclusion in the Reference Control Bank of Regulatory Legal Acts of the Republic of Kazakhstan;
 - 3) place this joint order on the Internet resource of the Ministry of National Economy of the Republic of Kazakhstan;
 - 4) within ten working days after the state registration of this joint order with the Ministry of Justice of the Republic of Kazakhstan, submit the data on execution of the actions provided for in subparagraphs 1), 2) and 3) of this paragraph to the Legal Department of the Ministry of National Economy of the Republic of Kazakhstan.

3. Control over the execution of this joint order shall be entrusted to Supervising Deputy Minister of Internal Affairs of the Republic of Kazakhstan and Supervising Vice- Minister of National Economy of the Republic of Kazakhstan.

4. This joint order shall be enforced upon expiry of thirty calendar days after the date of its first official publication.

*Minister of Internal Affairs
of the Republic of Kazakhstan*

K. Kassymov

*Minister of National Economy
of the Republic of Kazakhstan*

T. Suleimenov

Approved
by joint order No. 608
of the Minister of Internal Affairs
of the Republic of Kazakhstan
dated August 29, 2018,
and the Minister of National
Economy of the
Republic of Kazakhstan No. 12
dated August 29, 2018

Rules of implementation of trading activity of pawnshops

Chapter 1. General Provisions

1. These Rules of implementation of trading activity of pawnshops (hereinafter referred to as the Rules) are developed in accordance with subparagraph 4-2) of Article 7 of the Law of the Republic of Kazakhstan dated April 12, 2004 “On Regulation of Trading Activities” and determine the procedure for conducting trading activities of pawnshops.

2. The basic concepts used in these Rules:

1) a personal safe deposit receipt - a document issued by a pawnshop at the time of concluding an agreement on storage of a thing, containing information about the thing in storage and the pawnshop's duty to keep the thing for three months after the expiration of the personal safe keeping receipt;

2) bailor (depositor) - an individual who deposits the thing to the pawnshop for storage in accordance with the terms of the personal safe receipt;

3) the subject of pledge - movable property owned by the pledgor and which serves as pledge, guaranteeing repayment of the loan;

4) a pawn ticket - a document given by a pawnshop when issuing a short-term loan, containing information on the subject of the pledge and terms of the loan;

5) a borrower -an individual who is at the same time a pledgor and receives a short-term loan from a pawnshop by providing (pawning) movable property intended for personal use, as collateral;

6) secret of providing a loan - information about borrowers, loan amounts, other loan conditions relating to the borrower, pawnshop operations (except for information about the items pledged and stored at the pawnshop);

7) short-term loan - a loan issued by a pawnshop to citizens for a period of not more than one year;

8) pawnshop - a legal entity, registered as a pawnshop, which carries out business activity on the issuance of short-term loans to citizens against security of movable property intended for personal use;

9) unclaimed thing is an item that is stored in a pawnshop and is not claimed by the bailor after the expiry of the personal safe deposit receipt.

3. Exclusive activities of pawnshops shall be:

1) provision of short-term loans against security of movable property;

2) accounting, storage and sale of jewelry containing precious metals and precious stones.

Pawnshops can carry out investment activities.

4. A legal entity that is not registered as a pawnshop shall not use in its name the word “pawnshop”, words derived from it, suggesting that it carries out activities related to conducting pawn transactions.

5. Pawnshops shall notify the authorized body on financial monitoring in accordance with the procedure established by the Law of the Republic of Kazakhstan dated May 16, 2014 “On permissions and notifications” about the start or termination of their activity.

6. A pawnshop shall carry out its activity strictly in the existence of the Rules for conducting pawning transactions, approved by the highest body of the pawnshop and containing the following information:

1) maximum limits of sums and terms of provided loans;

2) marginal interest rates on the loans provided;

3) rates and tariffs on conduct of transactions;

4) rights and obligations of the pawnshop and its clients, their responsibility;

5) procedure for issuing duplicates to the pledgor in the event of the pawn ticket loss;

6) other conditions.

7. The rules for carrying out pawning operations shall be put in a place that is accessible for the pawnshop customers' viewing.

8. Pawnshop shall:

1) provide the borrower with complete and reliable information in the Kazakh and (or) Russian languages on payments, rates and fees associated with obtaining, servicing and repayment (returning) of the loan;

2) inform the borrower about his rights, duties, and responsibilities related to obtaining a loan;

3) create conditions on the territory of the pawnshop for storage of things, providing their safety and excluding access to them by unauthorized persons;

4) immediately notify the borrower of the risk of loss or damage to the pawned item;

5) immediately return the subject of pledge to the pledgor in accordance with the pawn ticket upon fulfillment by him of the obligations to the pawnshop;

6) reimburse the actual value of the thing, indicated by the agreement of the parties, but not less than the valuation amount, in the event of its loss and (or) damage, unless it proves that the loss or damage was caused by force majeure;

7) store the unclaimed item within three months after the expiration of the nominal safe receipt;

8) guarantee confidentiality of the loan, with the exception of the requirements provided for by paragraph 42 of these Rules;

9) upon reorganization or liquidation, it shall return to the borrowers the pawned things within the time specified in the pawn tickets and the personal safekeeping receipts, provided that the borrowers fulfilled their obligations to the pawnshop.

9. The pawnshop shall not use or dispose of pawned things.

10. Pawnshops shall not be allowed to accept pledge according to the Civil Code of the Republic of Kazakhstan dated December 27, 1994 (hereinafter referred to as the Code), the Law of the Republic of Kazakhstan dated March 7, 2014 "On Rehabilitation and Bankruptcy" and the Law of the Republic of Kazakhstan dated April 2, 2010 "On Enforcement Proceedings and the Status of Enforcement Agents " of the following:

1) real estate;

2) prohibited or controlled items;

3) distrained property;

4) property encumbered by the claim rights of third parties;

5) property into possession of which the mortgagor will enter in the future;

6) perishable raw materials, food;

7) clothes, shoes, linen, bedding, kitchen and dining utensils that were in use, with the exception of fur and other valuable clothing, dinner sets, items made of precious metals, as well as items of artistic value;

8) children's items;

9) inventory (including manuals and textbooks) necessary for professional occupations;

10) vehicles specially designed for the movement of disabled persons, technical auxiliary (compensatory) means and special vehicles (wheelchairs) for disabled persons;

11) international, state and other awards received by the borrower.

11. In the case of integrity and completeness of jewelry containing precious metals and precious stones, the pawnshop shall not accept them in pledge as scrap jewelry.

12. The pawnshop shall not issue loans to persons under the age of eighteen.

Chapter 2. The procedure for granting a loan in pawnshops

13. The loan shall be provided by the pawnshop on a repayment and indemnity basis for a period of not more than one year to an individual - a borrower who is also a pledgor, transferring movable property under the pledge agreement to the pawnshop.

14. The amount payable under the loan agreement concluded with the borrower shall be determined in accordance with the requirements of the Code.

15. The pledge agreement and the loan agreement at the pawnshop shall be executed by the pawnshop upon issuing a pawn ticket and requiring insurance of the pledged property.

16. The pawn ticket shall be drawn up in writing in two copies, one for each of the parties, signed by the parties with each copy certified by a pawnshop seal (in its existence).

17. When extending the term of the loan, the pawnshop shall extend the validity of the pawn ticket while maintaining the terms of the loan.

In the event of the pawn ticket loss, the pawnshop shall issue its duplicate at the request of the borrower.

18. Valuation of the pawned item shall be made in tenge and shall be determined by the agreement of the parties, unless otherwise established by the laws of the Republic of Kazakhstan.

19. Upon receipt of the pledged item, the pawnshop shall seal it in the presence of the pledgor. The pawnshop shall provide the opportunity for the pledgor to make sure that the pledged item is sealed.

20. The pawn ticket shall contain a requirement for insurance of the pawned item.

21. The pawnshop shall independently develop the form of the pawn ticket, which shall contain the following information:

1) name, legal address and actual location of the pawnshop;

2) full name of the pledgor, date of birth, citizenship, registration address, actual residence, individual identification number, details of identity document of the pledgor;

3) amount of the loan and interest payable by the borrower in favor of the pawnshop;

4) full list of other payments, including penalties (fines, delinquency charges), their amounts to be levied in connection with the issuance, servicing or late repayment of the loan, in their existence at the pawnshop;

- 5) date and maturity of the loan;
- 6) interest rate on the loan (with mandatory indication of the interest rate on the loan, calculated per one calendar day);
- 7) possibility, procedure and conditions for the full or partial repayment of the loan (including early) with a commensurate decrease in the interest amount on the loan;
- 8) valuation amount of the pledged item;
- 9) name, list and detailed description (depending on the pledged item: serial number, model, condition, date of manufacture, weight, color, size) of the pledged items;
- 10) description and cost of precious metals and stones (if any exist) when pawning jewelry;
- 11) conditions and place of storage of the pledged item;
- 12) possibility of extending the pawn ticket when the borrower (including a third party, upon presenting an identity document and pawn ticket) pays a fee to the pawnshop for the loan days used while maintaining the terms of the loan;
- 13) obligation of the pawnshop to return the pledged item in case of early repayment of the loan without payment by the borrower of remuneration in favor of the pawnshop for unused days and other payments, including penalty (fine, delinquency charge);
- 14) obligation of the pawnshop to keep the pledged item within one month after the expiration of the loan repayment period in the event of default on fulfillment of obligations to the pawnshop by the borrower.

22. A pawn ticket shall contain other information that does not contradict the Code and these Rules.

23. Failure to comply with the requirements established by Article 307 of the Code shall entail the nullity of the pawn ticket.

24. The terms of the agreement on the pledge of things in a pawnshop that restrict the rights of the pledgor against the rights granted to him by the Code shall not be valid from the moment of the agreement conclusion. Instead of such conditions, the respective provisions of the Code shall be applied.

Chapter 3. Storage conditions in a pawnshop

25. The storage agreement for a thing in a pawnshop shall be executed by the pawnshop upon issuing a personal safe receipt.

26. A thing deposited at a pawnshop shall be valued by the agreement of the parties in accordance with the prices for a thing of this kind and quality, generally established in commerce at the time and place of its acceptance for storage.

27. The pawnshop shall develop own form of a personal security receipt, which shall contain the following information:

- 1) name, legal address and actual location of the pawnshop;
- 2) full name of the depositor, date of birth, citizenship, registration address, actual residence, individual identification number, details of the depositor's identity document;
- 3) name, list and detailed description (depending on the item: serial number, model, condition, date of manufacture, weight, color, size) of the item;
- 4) three-month storage period for an unclaimed item upon the expiration of the nominal safe receipt;
- 5) amount of the storage fees and other payments due to the pawnshop;
- 6) valuation amount of the thing;
- 7) the depositor's right to receive from the pawnshop the amount from the sale of the thing after deduction of the storage fee and other payments due to the pawnshop;
- 8) obligation of the pawnshop on insurance in favor of the bailor at its own expense of the thing indicated in the personal deposit receipt, in the full amount of its valuation;
- 9) conditions and storage place of the thing.

28. A personal safe deposit receipt shall contain other information not inconsistent with the Code and these Rules.

29. During the three-month storage period of the unclaimed item and until the day the item is sold, the pawnshop shall not impair the storage conditions of the item.

30. Storage conditions in a pawnshop that restrict the pledgor's rights against the rights granted to him by the Code shall not be valid from the moment of the agreement conclusion. Instead of such conditions, the respective provisions of the Code shall be applied.

Chapter 4. Procedure of levying of execution on pledged property and sale of an unclaimed thing

31. The borrower shall, at any time before the sale of the pledged property, terminate the levy of execution on it and its sale, having performed his obligations to the pawnshop.

32. The levy of execution against the pledged property to satisfy the claims of the pawnshop shall be carried out in accordance with the requirements of the Code.

33. The sale of the pledged property in a compulsory extrajudicial procedure shall be carried out by selling at a public auction in accordance with the procedure established by Article 319 of the Code.

The sale of the pledged property shall be executed on the sale and purchase agreement, in cases provided for in Article 152 of the Code and the primary accounting document in paper or electronic form, confirming the fact of the transaction and compiled in accordance with the Tax Code of the Republic of Kazakhstan dated December 25, 2017 (cash register check , sales receipt, bank statement, etc.) with the mandatory notification of the borrower about the sale of the pledged property in accordance with the requirements of the Code.

34. Of the amount received from the sale of the pledged property, the sum of the granted loan and the remuneration payable by the borrower to the pawnshop, as well as other payments due to the pawnshop, shall be repaid. The borrower shall be paid the remaining amount within three years from the date of receipt of the notification from the pawnshop about the sale of the pledged property upon presenting the pawn ticket and an identity document. When returning the remaining amount, the pawnshop shall, at the request of the borrower, provide the estimate of the size of this sum and the documents prescribed in paragraph 33 of these Rules.

35. In the event that the borrower did not apply for receipt of the amounts due within three years from the date of his notification by the pawnshop about the sale of the pledged property, the funds shall be turned into the income of the pawnshop.

36. After the sale of the pledged property, all the claims of the pawnshop to the borrower shall be deemed satisfied, regardless of the insufficiency of the amount of the pledged property sold to repay the loan and other payments in favor of the pawnshop.

37. When selling jewelry containing precious metals and precious stones, the pawnshops shall comply with the requirements for mandatory testing and branding at authorized organizations in the manner prescribed by the Law of the Republic of Kazakhstan dated January 14, 2016 “On precious metals and precious stones”.

38. Upon expiry of a three-month storage period, the unclaimed item shall be sold by the pawnshop in accordance with the procedure established by Article 785 and paragraph 2 of Article 781 of the Code.

Chapter 5. Requirements of safety and technical resistance to burglary in pawnshop premises

39. Pawnshop premises shall consist of an operating cash desk (an isolated room with a lockable door), a customer service area and a storage space.

40. The pawnshop premises shall be equipped with:

- 1) video surveillance systems with a record keeping function for at least 30 days;
- 2) photo recording device;
- 3) security alarm and emergency call console, with the signal output at the central security point of a private security organization, and in the absence of a private security

organization at the populated localities, an alarm system shall be installed that has a spare power source and ability to send an alarm signal to the manager's or pawnshop owner's mobile phone.

Chapter 6. Counteraction to sale in pawnshops of criminally acquired things

41. The requirements stipulated by the legislation of the Republic of Kazakhstan on countering legalization (laundering) of proceeds from crime and financing of terrorism shall apply to the activity of pawnshops.

42. Within ten working days the pawnshops shall inform the law enforcement agencies at the location of the pawnshop about the pledged things that have been at the pawnshop for more than one month after expiry of the loan with their photos and about the borrowers who handed these things over to the pawnshops.

43. In the events when the property that is the subject of a pledge is withdrawn from the pledger in accordance with the procedure established by the legislative acts on the grounds that in fact the owner of this property is another person, or as a sanction for an administrative or criminal offense, the pledge in respect of this property shall be terminated. In these cases, the pawnshop shall have the right to require early performance of the obligation secured by the pledge.

44. When registering cases of criminal offenses against property, with the exception of the things specified in paragraph 10 of these Rules, the law enforcement bodies shall direct information about the stolen things with their full description to all the pawnshops within the populated locality.

45. If the thing handed over to the pawnshop corresponds to the description of the stolen item, the pawnshop shall immediately report this fact to the law enforcement body.